



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
27 Maple Street Arlington, MA 02476

**Board of Health Meeting Agenda
Ground Floor Conference Room
Arlington Senior Center
Wednesday, December 5, 2018
5:30 PM**

1. AGENDA ITEM:

Acceptance of Meeting Minutes from October 24, 2018
Acceptance of Meeting Minutes from November 14, 2018

2. HEARING:

Regulation to Ensure the Sanitary and Safe Operation of Adult-Use Marijuana Establishments and the Sale of Adult-Use Marijuana

3. HEARING:

Appointment of Cindy Sheridan Curran to Agent of the BOH

4. HEARING:

USushi Café (474 Massachusetts Avenue) – Variance Request

5. HEARING:

Medical Marijuana

6. UPDATES:

Environmental Updates

7. UPDATES:

Restaurant Updates

8. UPDATES:

Public Health Nurse Updates

Adjourn



Town of Arlington, Massachusetts

AGENDA ITEM:

Summary:

Acceptance of Meeting Minutes from October 24, 2018

Acceptance of Meeting Minutes from November 14, 2018

ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	10242018_Minutes_Board_of_Health_draft.docx	October Meeting Minutes
▢	Reference Material	11142018_Minutes_Board_of_Health_draft.pdf	November Meeting Minutes



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
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Arlington, MA 02476

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DRAFT
Board of Health Meeting Minutes
Wednesday, October 24, 2018
BOH Conference Room – Mural Room
Arlington Senior Center
5:30 pm

Board Members in Attendance: Dr. Marie Walsh Condon, Mr. Kenneth Kohlberg

Board Members Absent: Dr. Kevin Fallon

Staff in Attendance: Natasha Waden, Director of Public Health; Pdraig Martin, Health Compliance Officer, Kylee Sullivan, Health Compliance Officer; Jessica Kerr, Public Health Nurse; Nina Shields, Public Health Associate

Others in Attendance: Ben Tesser, Jillian Curran

Recording Secretary: Laura Munsey, Health & Human Services Office Manager

Meeting called to order by Dr. Marie Walsh Condon at 5:32 pm.

Accept September 12, 2018 Meeting Minutes

A **Motion** was made by Mr. Kenneth Kohlberg which was seconded by Dr. Marie Walsh Condon to accept the September 12, 2018 meeting minutes as submitted.

Vote: 2-0 in favor of the motion (Unanimous)

Discussion: Novus Agenda – Adam Kurowski

Director Waden introduced Mr. Adam Kurowski, who is the Town of Arlington Geographic Information Systems (GIS) Director and Systems Analyst, to the Board to present the benefits of Novus Agenda, an online agenda management system. He informed the Board that Novus Agenda is currently used by the Select Board, School Committee, Arlington Redevelopment Board, as well as Town Meeting, and he is excited to include the Board of Health in the utilization of Novus Agenda. He reported Novus Agenda will streamline the process, allow better access to the system, provide word searchable user options, as well as provide date stamped documents. The use of Novus Agenda will simplify the process, and reduce paper use, but allows access to print documents for those that prefer a print method. Mr. Kurowski stated he is available to provide training for the Board and has been working with Director Waden and Inspector Martin so they may learn the back-end of the system.

Director Waden anticipates implementation in February of 2019, and will invite Mr. Kurowski back at that time to review the process and answer any questions the Board may have.

HEARING: Appointment of Cindy Sheridan Curran to Agent of the BOH

Director Waden informed the Board she would like consideration to the appointment of Cindy Sheridan Curran as a Board of Health Agent for the issuance of tickets and fines for smoking and vaping violations in schools. Ms. Curran is currently the Court Liaison/Attendance Officer/Diversion Coordinator for the Arlington Public Schools, and works closely with the Arlington Police Department, the Health Department, and the Arlington Youth Health and Safety Coalition. Ms. Curran is regularly involved with the Town's restorative justice program.

Whereas Ms. Curran is already working within the schools, and has an established relationship with the students at both the Middle and High School, Director Waden believes it is appropriate to have her as a Health Agent available to issue smoking and vaping violations and fines in an expedited manner, and to work with families and the school, regarding these violations. Director Waden requested this appointment in order to streamline the process of issuing tickets, following up with parents, confirming payment of any fines, and pursuing court complaints when necessary.

Mr. Kohlberg informed the Board that he is a friend of Ms. Curran and therefore would need to abstain from a vote regarding this matter.

The Hearing has been Tabled until the next Board of Health Meeting (scheduled for December 5, 2018).

Discussion: Board of Health Meeting Schedule

Additional Meeting in November 2018

Director Waden asked the Board to schedule an additional Board of Health Meeting in November to finalize the **Regulation to Ensure the Sanitary and Safe Operation of Adult-Use Marijuana Establishments and the Sale of Adult-Use Marijuana**. After discussion, it was recommended and approved to schedule a Board of Health Meeting on Wednesday, November 14, 2018 at 5:30 pm at the Arlington Senior Center, Ground Floor Conference Room, 27 Maple Street.

Draft 2019 Proposed Meeting Schedule

Director Waden proposed the following 2019 Meeting Schedule:

- February 6, 2019
- April 10, 2019
- May 22, 2019
- June 19, 2019
- September 11, 2019
- October 23, 2019
- December 4, 2019

All meetings will begin at 5:30 pm and will be held at the Arlington Senior Center Ground Floor Conference Room, 27 Maple Street.

Discussion: Regulation to Ensure the Sanitary and Safe Operation of Adult-Use Marijuana Establishments and the Sale of Adult-Use Marijuana

As background, Inspector Martin addressed the Board and stated In 2016 voters approved a ballot initiative to legalize the recreational use of marijuana. The Cannabis Control Commission was established and has since been appointed by the state to regulate and license retail establishments selling marijuana for recreational use. In 2018 the Cannabis Control Commission released 935 CMR 500 Adult Use of Marijuana Regulations and began accepting applications.

Inspector Martin provided the Board with copies of the Arlington Board of Health draft regulations to ensure the sanitary and safe operation of adult-use marijuana establishments and the sale of adult-use marijuana. He informed the Board that these draft regulations were compiled from the model regulations drafted by Cheryl Sbarra, Director of Policy and Law for the Massachusetts Association of Health Boards, along with components from the Arlington Board of Health Medical Marijuana Establishment Regulations. Town Counsel, Doug Heim, has reviewed the draft regulations, made recommendations, and is working with Director Waden and Inspector Martin to fine tune the regulations. Mr. Kohlberg inquired if any other Communities have established and adopted their own regulations, or if Arlington is the first community to do so. It was reported Belmont has also adopted their own regulations, and other communities are in the process of establishing regulations. Director Waden informed the Board that the Moratorium ends December 31, 2018, and therefore it is important to have regulations in place prior to that date. She reported there is a Special Town Meeting scheduled for December 5, 2018 to vote on issues related to this matter.

The Board requested clarification on the following items:

Section D Marijuana Operating Permit:

Item 1-b (page 5).

A marijuana delivery-only establishment, if authorized and licensed under state regulations shall not be required to have a permanent non-mobile location, but shall have an in-state permanent business office address and contact information available. Upon request, the establishment must share information about the current location and destination of its employees with the Arlington Board of Health.

Dr. Walsh Condon inquired if establishments can be delivery only, and if any/all establishments can deliver. Padraig Martin will obtain and provide clarification to the Board.

Item 10 (page 6)

No Person under the minimum legal sales age shall be permitted to enter an establishment with a Marijuana Operating Permit, except, if the establishment is co-located with a medical marijuana treatment center as defined in 935 CMR 500.002. Those individuals in possession of a registration card demonstrating that he or she is a registered qualifying patient with the Medical Use of Marijuana Program, (105 CMR 725.000 Implementation of the Act for the Humanitarian Medical Use of Marijuana) may enter.

Dr Walsh Condon inquired if the Board of Health can separate co-location within an establishment.

Director Waden informed the Board she will consult with Town Counsel, and provide additional information at the November meeting.

Item 11 (page 6)

Mr. Kohlberg noticed a typographical error in the draft regulations and requested line 4 “the permits” be replaced with “that permits”.

Item 12 (page 6)

The Board inquired about why the Buffer Zone and Zoning issues had been stricken from the draft regulations.

Director Waden informed the Board that zoning of marijuana establishments falls under the jurisdiction of the Arlington Redevelopment Board (ARB), and has submitted a Warrant Article that will be presented to and voted on at the Special Town Meeting scheduled for December 5, 2018. Waden stated that she would share the final draft of the warrant article with the Board when it is finalized for Town Meeting by the ARB.

Item 20 (page 7)

No applicant is permitted to hold a common victualler license or food service permit issued by the Board of Health for on-premises food consumption.

Director Waden informed the Board she spoke with Town Counsel who suggested different wording which will be incorporated in the next set of draft regulations.

Item 29 (page 8)

The Board inquired about Operating Hours.

Inspector Martin informed the Board that hours may need to be adjusted and will most likely be similar to alcohol establishment allowable times of operation. Additional information will follow.

Marie Walsh Condon inquired if Cheryl Sbarra, could review our regulations prior to adopting, to make sure everything appears in line, so nothing is inconsistent. She also asked if Cheryl Sbarra and/or Doug Heim could attend the November meeting, to answer any questions the Board may have.

Updates: Environmental Health

Rock Removal Regulations

Inspector Sullivan informed the Board that she is in the process of drafting Rock Removal Regulations, and is researching local communities, as well as New York Regulations, which has an abundance of regulations pertaining to nuisance, noise, and dust.

Keeping of Hens updated – 73 Thorndike

Inspector Sullivan informed the Board that the Homeowner of 73 Thorndike Street, Ms. Maria Peralta, who came before the Board on May 23, 2018 has successfully completed a course at Waltham Fields Community Farms, and will begin construction on her Coop in the Spring.

Updates: Restaurants

2013 Food Code

Massachusetts DPH has adopted the 2013 Food Code. Inspector training will begin on the October 15th and establishment training will begin in November.

Openings

- Luigi's Italian Kitchen has opened at 242 Massachusetts Avenue

Closings

- Youth Villages at Germain Lawrence School has closed

Plan Reviews

- Yassou
- Bubble Nation
- Butternut Bake House – was Residential, and is expanding to become a Commercial Establishment
- Adventure Pub
- Yu Sushi
- Tesse Products, LLC (New Establishment into the Local Fare)

Updates: Public Health Nurse

Public Health Nurse, Jessica Kerr informed the Board that this month, Flu Clinics have been completed at all 7 Elementary Schools, as well as at Gibbs (town-wide 6th Grade). She reported that there will be two clinics at the Ottoson Middle School, one for students during the day and an evening family clinic on Thursday, October 25th, and Arlington High School will hold a flu clinic for students and teachers in November.

Ms. Kerr appreciated the help of all who assisted with flu clinics, including the MRC/Volunteer Nurses, Administrative Staff, and Public Health Associate Nina Shields. She also thank Captain Al Sharp of the Arlington Fire Department, who not only assisted at the school clinics, but also helped vaccinate the Arlington Fire Fighters. She also informed the Board and thanked Sue Franchi, School Nurse Supervisor, who offered to vaccinate the School Administration Staff, and also helped out at multiple flu clinics.

Public Comment

Ben Tesser and Jillian Curran, UMass Boston Students, introduced themselves to the Board and asked the Board for their Names, Titles, and years of service to the Board of Health. They stated they they attended tonights meeting as part of a school project. Public Health Nurse, Jessica Kerr provided her contact information, if they had any additional questions.

Meeting Adjourned at 6:27 pm



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D R A F T

**Board of Health Meeting Minutes
Wednesday, November 14, 2018
BOH Conference Room – Mural Room
Arlington Senior Center
5:30 pm**

Board Members in Attendance: Dr. Marie Walsh Condon, Mr. Kenneth Kohlberg, Dr. Kevin Fallon

Staff in Attendance: Natasha Waden, Director of Public Health; Pdraig Martin, Health Compliance Officer, Kylee Sullivan, Health Compliance Officer; Nina Shields, Public Health Associate

Others in Attendance: Jordan Weinstein, Doug Heim

Recording Secretary: Laura Munsey, Health & Human Services Office Manager

Meeting called to order by Dr. Marie Walsh Condon at 5:34 pm.

Hearing: Regulation to Ensure the Sanitary and Safe Operation of Adult-Use Marijuana Establishments and the Sale of Adult-Use Marijuana

Director Waden recapped the 10-24-18 Board of Health meeting and the recommended changes to the draft Regulations to Ensure the Sanitary and Safe Operation of Adult-Use Marijuana Establishments and the Sale of Adult-Use Marijuana. Inspector Martin incorporated into the Draft Regulations detailed recommendations from Mr. Doug Heim, Town Counsel for the Town of Arlington.

Marijuana Transports

Inspector Martin addressed the Board's previous inquiry at the 10-24-18 meeting, regarding Marijuana Transports. Inspector Martin informed the Board that Marijuana Transports may not deliver directly to consumers. Marijuana Transports can only transfer to permitted establishments. Director Waden stated that there is conflicting information and confusing definitions in the Cannabis Control Commissions (CCC) Regulations. She provided the Board with examples of conflicting statements. Aside from the confusion, Waden explained that there are strict requirements outlined by the CCC in regards to transportation of marijuana. Some examples outlined in the draft regulations include policies and procedures regarding: transportation container types and security; refrigeration for certain marijuana infused products; products weighing before transport; GPS tracking; modes of communication during transport; and transporter check-ins.

Dr. Walsh Condon asked if the Board could include a clause in the Town's Regulations that "delivery to consumers is not possible".

Natasha Waden introduced Mr. Doug Heim, Arlington Town Counsel to the Board.

Mr. Heim addressed the Board and stated that some of the confusion in the CCC's Regulations is due to multiple previous drafts Regulations and an ambitious recreational marijuana roll out plan by the State. Mr. Heim recommended that the Board continue to incorporate protective measures for the health, safety, and well-being of residents in the Regulations, while also keeping them harmonious with other Regulations.

During the Public Comment period, Mr. Jordan Weinstein stated that the Arlington Redevelopment Board (ARB) zoning bylaw prohibits retail marijuana establishments from delivery.

Co-Location

Inspector Martin addressed the Board's previous inquiry at the the 10-24-18 meeting, regarding co-location of recreational and medical marijuana. He stated that co-location cannot be prohibited, however, physical separation of the products and sales areas is required by the CCC.

Marie Walsh Condon expressed concern with difficulty establishing co-location from a business perspective, as to who can come in, who has a registration card, proof of identification, etc.

Dr. Walsh Condon stated that the Town's current Medical Marijuana Regulations prohibit entrance into a permitted establishment without a registration card. She inquired about if walls or glass partitioning of co-locations is practical, if separate entrances are possible, and if so, would this option meet fire and building code standards.

Zoning and Buffer Zones

Mr. Heim addressed questions regarding zoning and buffer zones. He provided the Board with the history of zoning within the Town and a map of the anticipated changes recommended by the ARB. He stated many Town Departments and Committees are involved in this matter, including the Marijuana Study Committee. He informed the Board that a Special Town Meeting is scheduled for December 5th regarding a zoning bylaw amendment for Medical and Recreational Marijuana Establishments. Mr. Heim stated the anticipated recommendation is to allow a maximum 500-foot buffer around public or private schools (grades K-12), a 200-foot buffer around public libraries, and 300-foot buffer around town-owned playgrounds and recreational facilities. Additionally, a Marijuana Retailer would not be able to establish with 2,000 feet of another Marijuana Retailer. It was reported that currently Medical Marijuana establishments are allowed in Zones B3 and B5. The ARB is recommending expansion to also include Zones B2 and B4. This would allow for three (3) establishments in Town. He stated this information may change or a substitute motion could be presented at the Special Town Meeting. Mr. Heim reminded the Board that the ARB zoning bylaw must be approved by 2/3 of Town Meeting.

Dr. Walsh Condon requested the Health Department further review the Model Regulations from the Massachusetts Association of Health Boards (MAHB), the Town of Belmont, and would like to seek guidance from MAHB's Cheryl Sbarra, or at a minimum have her review our Regulations prior to a vote.

Dr. Walsh Condon stated that she supports the ARB's jurisdiction over the zoning of these establishments. She stated it is the Board of Health's concern, however, as to what happens if establishments fail to limit youth access. That is a public health concern for the Board. Dr. Walsh Condon explained that she understands the zoning recommendations based on traffic and parking, but stated the Board is concerned with public health and safety. She referenced the Board of Health's Bio Medical Regulations as precedence, and stated the Board can include in regulations zoning requirements at certain locations.

The following changes were recommended for the Draft Regulations:

- Page 3, 3rd Paragraph: 2nd line - change "CNB" to "CCC"
- Page 3, 6th Paragraph: 1st line - change "Dispensary" to "Establishment"
- Add Definition of Marijuana-Infused Products (MIP)
- Define Operating Permit
- Page 5, Paragraph 2: 2nd line - change "CNB" to "CCC"
- Page 6 and 7: Fix the conflict between #11 and #19
- Page 8, # 2: Dr. Walsh Condon would like included refuse to be in an unusable form
- Page 8, # 28: The Board would like the operation hours to mirror the Medical Marijuana Dispensary operation hours
- Page 12: The Board would like to add a clause for Emergency Closure, and language regarding suspension of license, and policy regarding hearings and appeals
- The Board supported prohibiting Keno/Lottery and alcohol sales at Marijuana retailers

Mr. Doug Heim stated that he believed the Regulations to be fair and conscientious.

Public Comment

Mr. Jordan Weinstein addressed the Board, and introduced himself as a Town Meeting Member from Precinct 21 and a member of the Town's Marijuana Study Committee. He expressed interest in involvement regarding this matter, and his reasons for wanting to be on the Marijuana Study Committee. Mr. Weinstein expressed concern with the Board's Regulations potentially contradicting the ARB's zoning Regulations. He stated substitute motions may be presented at the Special Town

Meeting. He cited a recent newspaper article that indicated the CFA Credit Union in Gardner, MA is offering banking services, including credit card services, to Marijuana retailers. He informed the Board the Medical and Recreation Marijuana products have different costs for consumers. He inquired about waste and refuse of product to which Dr. Walsh Condon stated that edibles must have expiration dates. Dr. Fallon stated that other states have reported a "black market" for expired products and thus the Board would like documentation of the destruction of expired products. Mr. Weinstein inquired about the definition of "Dispensary Agent" and the Board stated all employees who work at the establishment are considered "Dispensary Agents" and all must complete CORI and SORI checks.

Meeting Adjourned at 7:37 pm.

DRAFT



Town of Arlington, Massachusetts

Regulation to Ensure the Sanitary and Safe Operation of Adult-Use Marijuana Establishments and the Sale of Adult-Use Marijuana

ATTACHMENTS:

Type	File Name	Description
▢ Reference Material	BOH_Adult_Use_Marijuana_1.pdf	REGULATION TO ENSURE THE SANITARY AND SAFE OPERATION OF ADULT-USE MARIJUANA ESTABLISHMENTS AND THE SALE OF ADULT-USE MARIJUANA
▢ Reference Material	ARBReporttoSpecialTownMeet.pdf	ARB Zoning Bylaw Amendment



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**REGULATION TO ENSURE THE SANITARY AND SAFE OPERATION OF
ADULT-USE MARIJUANA ESTABLISHMENTS AND THE SALE OF ADULT-USE
MARIJUANA**

A. Statement of Purpose and Authority:

Whereas, Massachusetts voters approved the regulation of the use and distribution of adult-use marijuana not medically prescribed on November 8, 2016 pursuant to Chapter 344 of the Acts of 2016, as amended by Chapter 55 of the Acts of 2017, an Act to Ensure Safe Access to Adult-use marijuana;

Whereas, the prevention of the illegal sale and use of marijuana, particularly involving youth, is a public health priority;

Whereas, the state regulation 935 CMR 500.000 allows for lawful local oversight and regulation, including local fee requirements;

Whereas, Chapter 55 of the Acts of 2017 specifically allows municipalities to “adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments” specifically related to “the time, place and manner of marijuana establishment operations and of any business dealing in marijuana accessories” provided that such restrictions “are not unreasonably impracticable and are not in conflict” with the state statute or regulations regulating marijuana sales;

Whereas, local oversight and inspection of adult-use marijuana establishments are within the legal authority of local boards of health to protect public health, safety and welfare;

Whereas, the Massachusetts Supreme Judicial Court has held that “. . . [t]he right to engage in business must yield to the paramount right of government to protect public health by any rational means.”¹

Now, therefore it is the intention of the Arlington Board of Health to regulate adult-use marijuana establishments and the sale of adult-use marijuana.

B. Definitions:

¹ Druzik et al v. Board of Health of Haverhill, 324 Mass. 129 (1949).

Unless otherwise indicated, terms used throughout this regulation shall be defined as they are in 935 CMR 500.000 and General Law Chapter 94G, §1. In addition, for the purposes of this regulation, the following words shall have the following meanings:

Adult-Only Retail Tobacco Store: An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products or offer of services is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and which maintains a valid Tobacco and Nicotine Delivery Product Sales Permit as required by the Arlington Board of Health.

Board of Health: Town of Arlington Board of Health and its designated board of health agents.

Board of Health Agent: The Director of Public Health and any town employee designated by the board of health, which may include board of health staff, law enforcement officers, fire officials and code enforcement officers.

Business Agent: An individual who has been designated by the owner or operator of any adult-use marijuana establishment to be the manager or otherwise in charge of said establishment.

Edible Marijuana Products: A marijuana product that is to be consumed by humans by eating or drinking and is sold or made by a facility licensed as a Marijuana Establishment under 935 CMR 500.000.

Employee: Any individual who performs services for an employer.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

Marijuana: All parts of any plant of the genus cannabis, not excepted below, and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94G of the General Laws.

“Marijuana” shall not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; hemp; or the weight of any other ingredient combined with adult-use marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana Accessories: Equipment, products, devices or materials of any kind that are intended or designed for use in ingesting, inhaling or otherwise introducing adult-use marijuana into the human body.

Marijuana Establishment: Any type of marijuana-related business licensed by the Cannabis Control Commission pursuant to 935 CMR 500.050, including a marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer independent testing laboratory, marijuana retailer, marijuana research facility, marijuana transporter, marijuana micro-business, or any other type of licensed marijuana-related business, except a medical marijuana treatment center (otherwise known as a Registered Marijuana Dispensary (“RMD”).

Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD): An entity registered under 105 CMR 725.100: “Registration of Registered Marijuana Dispensaries,” which acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Marijuana Establishment Agent Permit: A permit issued by the Board of Health, expiring on December 31st and to be renewed annually, which permits an eligible person to be employed by a Marijuana Establishment.

Marijuana Establishment Agent Permit Holder: Any employee at a Marijuana Establishment who applies for and receives an Establishment Agent Permit.

Marijuana-Infused Product (MIP): A product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by a Registered Marijuana Dispensary, shall not be considered a food or a drug as defined in General Law Chapter 94G, §1. Marijuana Products: Products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces rolled marijuana products solely for the individual's own personal consumption or use) that is capable of making rolled marijuana products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

Marijuana Establishment Operating Permit: A permit issued by the Board of Health, expiring on December 31st and to be renewed annually, that permits a Marijuana Establishment to operate within the Town of Arlington. A separate Marijuana Establishment Operating Permit is required for each retail establishment selling marijuana and/or marijuana products and for each location, not being the same address as the retail establishment, where the Marijuana Establishment is approved by the Cannabis Control Commission to cultivate marijuana or prepare MIPs.

Operating Permit Holder: Any person engaged in the cultivation, sale, distribution or delivery of marijuana who applies for and receives a Marijuana Establishment Operating Permit, or any person who is required to apply for an operating permit pursuant to these regulations, or his or her business agent.

Minimum Legal Sales Age: The age an individual must be before that individual can be sold a marijuana product in the municipality.

Person: Any individual, firm, partnership, association, corporation, company or organization of any kind, including, but not limited to an owner, operator, manager, proprietor or person in charge of any establishment, business, cultivation property or retail store.

Self-Service Display: Any display from which customers may select marijuana or a marijuana-infused product without assistance from an establishment.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes adult-use marijuana products.

C. Marijuana Sales to Persons Under the Minimum Legal Sales Age Prohibited:

1. No person shall sell marijuana or permit marijuana, as defined herein, to be sold to a person under the minimum legal sales age; or give marijuana or marijuana products as defined herein, to a person under the minimum legal sales age. The minimum legal sales age in the Town of Arlington is 21 years of age.
2. Each person selling or distributing marijuana or marijuana products as defined herein, shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth and showing that the purchaser is 21 years of age or older.
3. All retail sales of marijuana or marijuana products shall be face-to-face between the seller and the buyer and occur at the permitted location unless and until delivery of marijuana is authorized and licensed under state regulation and then, in strict compliance with all applicable rules and regulations as well as the age limitation set forth herein.

D. Marijuana Establishment Operating Permit:

1. No person shall sell, cultivate, deliver or otherwise commercially distribute marijuana or marijuana products, as defined herein, within the Town of Arlington without first obtaining a Marijuana Establishment Operating Permit issued annually by the Arlington Board of Health. Only owners of establishments with a permanent, non-mobile location in Arlington are eligible to apply for an operating permit at the specific location in the Town of Arlington and must meet the following application requirements:
 - i. All applicants shall certify that they are in compliance with all local and state laws, regulations, bylaws, including proof of a current license with the Cannabis Control Commission and be prepared to show proof if requested.
 - ii. A marijuana delivery-only establishment, if authorized and licensed under state regulation shall not be required to have a permanent non-mobile location but shall have an in-state permanent business office address and contact information available. Upon request, the establishment must share information about the current location and destination of its employees with the Arlington Board of Health.

2. No person shall gift marijuana or marijuana products to a consumer contingent upon the sale of any other products.
3. No person shall accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any coupon that provides marijuana or a marijuana product without charge.
4. As part of the Marijuana Establishment Operating Permit application process, the applicant will be provided with this Town of Arlington regulation. Each applicant is required to sign a statement declaring that the applicant has read this regulation and that the applicant is responsible for instructing all employees who will be responsible for marijuana sales about federal, state and local laws regarding the sale of marijuana, including this regulation.
5. As part of the Marijuana Establishment Operating Permit application process, the applicant shall submit to the Board a detailed summary of its operating policies and procedures as required for submission to the Cannabis Control Commission under 500 CMR 101 (1) or 500 CMR 101(2)(for previously registered RMD Applicants) which shall include, but not be limited to provisions for security, inventory, storage and transportation of marijuana; transportation of marijuana, prevention of diversion of marijuana products among employees in the workplace, quality control and testing of products, personnel and training policies; medicinal product dispensing procedures (as applicable); and record-keeping procedures.
6. A separate Marijuana Establishment Operating Permit, displayed conspicuously, is required for each Marijuana Establishment, the fee for which shall be determined by the Arlington Board of Health.
7. A Marijuana Establishment Operating Permit is non-transferable. Each new owner of a Marijuana Establishment must apply for a new permit.
8. Issuance of a Marijuana Establishment Operating Permit shall be conditioned on an applicant's consent to periodic inspections of the Marijuana establishment, including any off-site location within the jurisdiction of the Board of Health, where business is conducted relating to the manufacture or sale of marijuana at the Marijuana establishment.
9. A Marijuana Establishment Operating Permit will not be renewed if the permit holder has failed to pay all fines issued and the time to appeal the fines has expired without an appeal having been filed and/or the permit holder has not satisfied any outstanding permit suspensions. If a violation was enforced by non-criminal dispositions, any appeal shall be taken pursuant to G.L. c. 40, §21D.
10. A Marijuana Establishment Operating Permit may be subject to non-renewal if the establishment has sold or otherwise supplied marijuana or a marijuana product to any person under the minimum legal sales age two (2) or more times within the previous 12 months and either the time to appeal has expired without an appeal having been filed or any such appeal or appeals were unsuccessful. The permit holder may request a hearing pursuant to this regulation prior to non-renewal. A hearing will be held pursuant to Section L of this regulation.

11. No person under the minimum legal sales age shall be permitted to enter Marijuana Establishment except, if the establishment is co-located with a medical marijuana treatment center as defined in 935 CMR 500.002. Those persons in possession of a registration card demonstrating that he or she is a registered qualifying patient with the Medical Use of Marijuana Program, (105 CMR 725.000 Implementation of the Act for the Humanitarian Medical Use of Marijuana, or 935 CMR 501 Medical Use of Marijuana) may enter.
12. A Marijuana Establishment shall sell primarily marijuana, edible marijuana products and marijuana accessories. The sale of other products must be merely incidental. A retail marijuana establishment is prohibited from holding Tobacco and nicotine Delivery Product Sales Permit, or a license that permits the sale or distribution of any alcoholic beverage in any form. No applicant for an Operating Permit, nor any operating Marijuana Establishment is permitted to hold or acquire a common victualler license or Permit to Operate a Food Establishment issued by the Board of Health for on-premises food consumption without first providing clear notice to the Select Board, the Arlington Redevelopment Board, and the Board of Health of its intention to provide food service along with marijuana retail products and obtaining explicit approval for same from each such appropriate entity.
13. All Marijuana Establishment Operating Permits expire annually on December 31.
14. Each applicant is required to provide proof of a current Certificate of Registration to Operate a Marijuana Establishment, issued by the Cannabis Control Commission, or other authorized agency, before a Marijuana Establishment Operating Permit can be issued.
15. The Board of Health will hold a public hearing for the applicant to present their initial application. The Board of Health may require the applicant to furnish additional information regarding their application before voting to grant or deny the Marijuana Establishment Operating Permit. The Board will not hold a public hearing for renewal applications.
16. Each Marijuana Establishment must hold an annual community meeting to provide abutters and community residents with an opportunity to comment on the Marijuana Establishment's operating practices, policies and plans. The community meeting shall be advertised by the Marijuana Establishment through direct mail or other written communication to abutters. A notice of the same shall be advertised in the local newspaper. A report outlining the attendance, comments received, and proposed responses and plans to address the comments shall be submitted to the Board with the renewal application.
17. Marijuana Establishments are prohibited from using self-service displays, vending machines or Non-Residential Roll-Your-Own machines. All retail sales of marijuana must be face-to-face between the Dispensary Agent and the Card Holder and occur at the permitted location, unless the Card Holder is the proper recipient of home delivery in accordance with 105 CMR 725.000.
18. As a condition of Marijuana Establishment Operating Permit issuance, the Marijuana Establishment agrees to provide to the Board of Health a copy of their Marijuana Establishment License, annual

renewals thereafter, any changes to the business as described in 935 CMR 500.104 and current written operating procedures required in 935 CMR 500.105.

19. As a condition of Marijuana Establishment Operating Permit issuance, the Marijuana Establishment agrees to notify the Board of Health, orally and in writing, within 24 hours of a visit to the premises or request for information by any representative of the Cannabis Control Commission acting in an official capacity. The Marijuana Establishment shall provide the Board of Health with any reports, written or electronic correspondence, or information from the Cannabis Control Commission on demand or, in any case, within five (5) business days after receipt by the Marijuana Establishment.
20. Applicants who wish to prepare or sell edible MIPs at their Marijuana Establishment must undergo the Board of Health plan review process for food establishments prior to beginning operations. All edible MIPs shall be prepared, handled and stored in accordance with the requirements of 105 CMR 590.000: Minimum Sanitation Standards for Food Establishments at all times during operation.
21. No applicant is permitted to be a Massachusetts lottery dealer.
22. A separate Marijuana Establishment Operating Permit is required for each retail establishment selling marijuana and/or marijuana products and for each location, not being the same address as the retail establishment, where the Marijuana Establishment is approved by the Cannabis Control Commission to cultivate marijuana or prepare MIPs.
23. The Marijuana Establishment Operating Permit shall be displayed in an open, conspicuous place in view of the public.
24. Marijuana Establishment Operating Permit Holders shall at all times ensure the buildings, structures, physical facilities, vehicles, fixtures and equipment of the Marijuana Establishment are maintained in a sanitary condition, in good repair, free from defects, and in every way fit for the use intended so as to prevent the occurrence of any nuisance conditions or other conditions which may endanger or impair health, safety or wellbeing of an occupant or the general public.

Applicants shall develop a plan, subject to review and approval by the Board of Health, for the safe and secure storage and disposal of all marijuana waste and refuse. The plan shall ensure all marijuana waste and refuse is rendered unusable and is disposed of in accordance with applicable laws.
25. Marijuana Establishment Operating Permit Holders shall at all times be subject to periodic, unannounced inspections conducted by the Board of Health and/or the Arlington Police Department. It shall be the responsibility of Operating Permit Holders to ensure that procedures are in place to ensure authorized agents Board of Health and/or Police Department can gain immediate entrance into the premises at any time employees are on the premises. Denial or delay of access to the Board of Health or the Arlington Police Department may be grounds for immediate suspension or revocation of a Marijuana Establishment Operating Permit.

26. Issuance and maintenance of a Marijuana Establishment Operating Permit shall be conditioned on the Marijuana Establishment Operating Permit Holder's compliance with any orders issued by the Board of Health to correct any deficiencies or violations identified during an inspection.
27. Marijuana Establishment Operating Permit Holders agree that a Marijuana Establishment will not open for business before 9:00 am and shall close no later than 8:00 pm daily.
28. Marijuana Establishment Operating Permit Holders agree that employees must be off the premises no later than 15 minutes after the official closing hour for customers, provided however, that such employees or other hired agents and contractors may be on the premises at any time for the purpose of cleaning, making emergency repairs, providing security for the premises, or preparing food products for the next day's business or opening or closing the business in an orderly manner. Further, no manager or employee shall consume any alcoholic beverages, marijuana or marijuana products while on the licensed premises while on duty or after the official closing hour.
29. Marijuana Establishment Operating Permit Holders agree that they and their employees or agents shall refuse entrance to the premises to a person who appears to be intoxicated or unruly; and shall evict such a patron, except that in such a case the employee or agent should call the police and should offer assistance to an intoxicated person when possible.

E. Marijuana Establishment Agent Permit:

1. No Marijuana Establishment Agent or person shall sell or otherwise distribute marijuana or marijuana products at a Marijuana Establishment within the Town of Arlington without first obtaining a Marijuana Establishment Agent Permit issued annually by the Board of Health.
2. As part of the Marijuana Establishment Agent Permit application process, the applicant will be provided with this regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and understands that under this regulation they are responsible for complying with all local and state regulations pertaining to the operation of the Marijuana Establishment. Specifically, a violation of any provision of 935 CMR 500.000 or other applicable state regulation constitutes a violation of this regulation, which may be enforced by the Board of Health.
3. Each applicant is required to provide proof by means of a valid government-issued photographic identification containing the bearer's date of birth that the applicant is 21 years of age.
4. Each applicant is required to provide proof of a current Marijuana Establishment Agent registration, issued by the Cannabis Control Commission, before a Marijuana Establishment Agent Permit can be issued by the Board of Health.

5. Each applicant is required to provide the Criminal Offender Record Information (CORI) report submitted on their behalf to the Cannabis Control Commission by the Marijuana Establishment.
6. Issuance and maintenance of a Marijuana Establishment Agent Permit shall be conditioned on an applicant's on-going compliance with this regulation, the requirements set forth in 935 CMR 500.000 (incorporated by reference herein), and any other requirements and policies regarding marijuana sales issued by the Commonwealth of Massachusetts, a violation of any of which constitutes a violation of these rules and regulations, which may be enforced by the Board of Health, as well as all any other entity authorized by the Commonwealth of Massachusetts, or the Town of Arlington.
7. A Marijuana Establishment Agent Permit will not be renewed if the Marijuana Establishment Agent Permit Holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding Marijuana Establishment Agent Permit suspensions.
8. Marijuana Establishment Agents must present their Cannabis Control Commission Registration Card and Marijuana Establishment Agent Permit to any law enforcement officer or municipal agent who questions the agent concerning their marijuana-related activities.
9. All Marijuana Establishment Agent Permits expire annually on December 31.
10. The fee for a Marijuana Establishment Agent Permit shall be determined by the Board of Health annually.

F. Incorporation of 105 CMR 500.000 and 105 CMR 590.000:

The manufacturing of all edible marijuana products shall be conducted in a state-licensed marijuana manufacturing facility and in accordance with all applicable state regulations. All Marijuana Establishments, including those that develop or process edible marijuana products, shall comply with the sanitary requirements in 105 CMR 500.000: Good Manufacturing Practices for Food. All edible products shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 590.000: Minimum Sanitation Standards for Food Establishments.

G. Out-of-Package Sales:

The sale or distribution of edible marijuana products in any form other than an original factory-wrapped package is prohibited, including the repackaging and sale of an edible marijuana product for retail sale.

H. Self-Service Displays:

All self-service displays of marijuana products are prohibited.

I. Vending Machines:

All vending machines containing marijuana products are prohibited.

J. Marijuana Accessories:

Marijuana accessories, as defined herein, shall only be sold in marijuana establishments and adult-only tobacco stores.

K. Compliance with All Laws:

1. All cultivation, processing, manufacturing, delivery, sale and use of marijuana shall be conducted in compliance with all state and local laws, ordinances, regulations, or policies. These shall include, where applicable but not limited to, compliance with Chapter 344 of the Acts of 2016, as amended by Chapter 55 of the Acts of 2017, 935 CMR 500.000, secondhand smoke laws and regulations, electronic cigarette laws and regulations, nuisance laws and regulations and all requirements associated with zoning and other local permitting. Violation of any such law, not including federal laws relating to marijuana, shall constitute a violation of this regulation and be subject to the fines and penalties described herein. Nothing in this regulation gives any immunity under federal law or poses an obstacle to federal enforcement of federal law.
2. A Marijuana Establishment shall submit a security plan for review to the Arlington Board of Health detailing all security measures taken to ensure patient, consumer, and community safety and eliminate unauthorized access to the premises.
3. The Arlington Board of Health, in consultation with the Arlington Police Department, and other town officials and departments may set limitations on the hours of operation of any Marijuana Establishment.
4. The Arlington Board of Health may require the distribution of additional educational materials in Marijuana Establishments.

L. Financial Security:

Marijuana Establishment Operating Permit Holders shall provide a non-cancellable surety bond or other form of surety approved by the Board of Health to cover the cost of removal, closure and/or clean-up in the event the Town must remove, close and/or clean-up the Marijuana Establishment. The amount and form of the surety bond or any other form of surety shall be determined by the Board of Health, but in no event shall exceed more than 150 percent of the cost of removal, closure and/or clean-up. The Marijuana Establishment Operating Permit Holder shall submit a fully inclusive estimate of the costs associated with removal, closure and/or clean-up, prepared by a qualified Hazardous Waste Remediation Contractor.

M. Reporting Requirements:

1. Any Operating Permit Holder intending to close a Marijuana Establishment, whether on a temporary or permanent basis, must notify the Board of Health in writing before such closing stating the reason and length of such closing.
2. An Operating Permit Holder shall immediately notify, in writing, the Board of Health any proceedings brought by or against the licensee under the bankruptcy laws or of any other court

proceedings which may affect the status of the license. Failure to provide such notice may result in the revocation of the license.

3. An Operating Permit Holder shall immediately notify, in writing, the Board of Health any disturbance, theft, property damage, break-in, or breach of the peace which occurs on the Marijuana Establishment premises. The Operating Permit Holder or other responsible employee or agent shall also promptly notify the Arlington Police Department and shall take all reasonable steps to assist any injured person and shall cooperate with police in their investigation.

N. Violations:

It shall be the responsibility of the Marijuana Establishment Operating Permit Holder and the Marijuana Establishment Agent Permit Holder to ensure compliance with all sections of this regulation pertaining to his or her distribution and/or cultivation of marijuana and/or marijuana products. The violator shall receive:

1. In the case of a first violation, a fine of three hundred dollars (\$300.00).
2. In the case of a second violation within 36 months of the date of the violation before the Board, a fine of three hundred dollars (\$300.00) and the Marijuana Establishment Operating Permit and/or Marijuana Establishment Agent Permit shall be suspended for seven (7) consecutive business days.
3. In the case of three or more violations within a 36 month period, a fine of three hundred dollars (\$300.00) and the Marijuana Establishment Operating Permit and/or Marijuana Establishment Agent Permit shall be suspended for thirty (30) consecutive business days.
4. Nothing in this section ("Violations") shall be construed to impair the Board of Health's discretion to impose some other type of penalty in place of fines or permit suspensions if the Board concludes that another penalty is appropriate. Such other penalties may include (but are not limited to) rolling back hours of operation or fixing other conditions on the license. In the event that a permit is suspended or modified, the Permit Holder may be ordered to submit a remediation plan addressing all causes for the suspension or modification and all appropriate changes to business practices and operations. Such remediation plan shall subject to review and approval by the BOH prior to reinstating the Permit.
5. The Board of Health reserves the right to permanently revoke a Marijuana Establishment Operating Permit and/or Marijuana Establishment Agent Permit for cause.
6. If a permit holder has obtained a permit or license from any other licensing or permitting authority within the Town of Arlington, the Board of Health shall notify such authority in writing of any violations of this regulation.
7. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the Marijuana Establishment Operating Permit and/or Marijuana Establishment Agent Permit.
8. In addition to the monetary fines set forth herein, any Marijuana Establishment Operating Permit Holder and/or Marijuana Establishment Agent Permit Holder who engages in the sale or

distribution of marijuana or marijuana products while his or her Marijuana Establishment Operating Permit and/or Marijuana Establishment Agent Permit is suspended, may be subject to the suspension and/or revocation of all Arlington-issued permits and licenses.

9. The Board of Health shall provide notice of the intent to suspend or revoke a Marijuana Establishment Operating Permit and/or Marijuana Establishment Agent Permit, which notice shall contain the reason(s) therefore and establish a time and date for a hearing, which date shall be no earlier than seven (7) days after the date of said notice. The Marijuana Establishment Operating Permit Holder, Marijuana Establishment Agent Permit Holder, or other involved party shall have an opportunity to be heard at such hearing. At the conclusion of the hearing, the Board of Health shall vote to suspend or revoke the Marijuana Establishment Operating Permit and/or Marijuana Establishment Agent Permit if cause for such action is found. All involved parties shall be notified in writing of the Board of Health's decision within seven (7) days of the hearing. For purposes of such suspensions or revocations, the Board of Health shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense.
10. The Board of Health, or where exigent circumstances would not permit the calling of a meeting of the Board, the Director of Health and Human Services, may seize, suspend, and/or revoke an Operating Permit and/or an Agent Permit immediately if, in the Board or Director's discretion, public health or safety warrants such an immediate seizure. If a license is seized immediately, a hearing will be commenced within two weeks of the seizure, unless the licensee assents in writing to a longer period of time.
11. All marijuana and marijuana products shall be removed from the retail establishment upon suspension of the Marijuana Establishment Operating Permit. Failure to remove all marijuana and marijuana products shall constitute a separate violation of this regulation.
12. All permit suspensions shall be served beginning on the same day of the week any violation occurred.

O. Enforcement:

1. Enforcement of this regulation shall be by the Arlington Board of Health or its designated agent(s).
2. Any resident who desires to register a complaint pursuant to this regulation may do so by contacting the Arlington Board of Health or its designated agent(s) and they shall investigate.

P. Variances:

1. A variance from this regulation may be requested in writing to the Arlington Board of Health. A variance may be granted by the Arlington Board of Health after a hearing at which time the applicant establishes the following:

- a. Strict enforcement of this regulation would do manifest injustice; and
 - b. The granting of a variance shall not in any way impair the public health and safety or the environment.
2. The Board of Health may impose any conditions, safeguards, and other limitations on a variance when it deems it appropriate to protect the public health and safety or the environment.

Q. Severability:

If any provision of this regulation is declared invalid or unenforceable, all other provisions shall not be affected thereby but shall be in full force and effect.

R. Effective Date:

This regulation shall take effect immediately upon passage by the Arlington Board of Health.

This regulation shall take effect on _____, 2018.

1. _____ 2. _____

Marie Walsh Condon, MD

Kenneth Kohlberg, JD, MPH

3. _____

Kevin Fallon, DVM



Town of Arlington
ARLINGTON REDEVELOPMENT BOARD

Report to:
Special Town Meeting, Wednesday, December 5, 2018

Voted as amended on Monday, November 19, 2018

Andrew Bunnell, Chair, (Term through 1/31/2020)
Andrew West, Vice Chair, (Term through 6/30/2020)
Eugene Benson (Term through 1/31/2020)
Kin Lau (Term through 1/31/2019)
David Watson (Term through 9/22/2023)

Jennifer Raitt, Secretary Ex-Officio

Introduction and Overview

The Arlington Redevelopment Board (ARB) is the Town's Planning Board, under M.G.L. Chapter 41 § 81. There are five members of the Board. Four are appointed by the Town Manager and the fifth is a gubernatorial designee appointed by the Massachusetts Department of Housing and Community Development. The Board serves as the Town's special permit granting authority for projects which require an Environmental Design Review (EDR) as identified in the Zoning Bylaw. The ARB is also the Town's Urban Renewal Authority under M.G.L. Chapter 121; with Town Meeting approval, the Board may hold property to improve and rehabilitate them to meet community development goals.

When any warrant article that proposes to amend the "Town of Arlington Zoning Bylaw" is put to a vote before Town Meeting, the ARB is required to issue a report with recommendations to Town Meeting. Appearing below is a warrant article that proposes an amendment to the Zoning Bylaw. The intent of the article is briefly explained, followed by the ARB's vote which constitutes its recommendation to Town Meeting. The recommendations of the ARB, and not the original warrant articles, are the actual motions that will be considered by the Town Meeting. Changes to the Zoning Bylaw text are shown beneath the recommended vote. Additions to the original Zoning Bylaw text appear as underlined text, while any deletions to the original Zoning Bylaw text appear as ~~strike through~~ text.

The ARB advertisement for Special Town Meeting (STM) appeared in the *Arlington Advocate* on October 18, 2018 and October 25, 2018. The Public Hearing was opened on Monday, November 5, 2018 and continued to November 7. At the November 7th meeting, the ARB voted unanimously on the recommended bylaw language for STM as shown below. This report as amended was unanimously approved at the November 19th ARB meeting.

Special Town Meeting, Warrant Article 2

ARTICLE 2

ZONING BYLAW AMENDMENT/ MEDICAL AND RECREATIONAL MARIJUANA ESTABLISHMENTS

To see if the Town will vote to amend the Zoning Bylaw to address Medical and Recreational Marijuana Establishments by: amending existing SECTION 2 DEFINITIONS "Medical Marijuana Treatment Center" and "Recreational Marijuana Establishments"; amending SECTION 3.4 ENVIRONMENTAL DESIGN REVIEW to include Recreational Marijuana Establishments as required to obtain an Environmental Design Review Special Permit; amending SECTION 5 DISTRICT REGULATIONS to create new use categories for Marijuana Establishments and amend existing use categories for Medical Marijuana Treatment Centers and to allow Recreational Marijuana Establishments and Medical Marijuana Treatment Centers in Business and Industrial zones; amending SECTION 8 SPECIAL REGULATIONS to remove the Temporary Moratorium on Recreational Marijuana Establishments and create a new section on marijuana uses; or take any action related thereto.

(Inserted by the Redevelopment Board)

Discussion:

STM Warrant Article 2 is an amendment to the Zoning Bylaw to include the definitions, use, and appropriate requirements for recreational marijuana establishments prior to the end of the moratorium on December 31, 2018. The Article also addresses medical marijuana treatment centers to address inconsistencies with state regulations in the Zoning Bylaw.

The Town of Arlington convened a Marijuana Study Committee comprised of town officials, including the Town Manager, the Director of Planning and Community Development, the Director of Health and Human Services, the Director of Inspectional Services, the Police Chief, Town Counsel, the chair of the Select Board, and the chair of the Redevelopment Board, as well as five residents. The Public Health Director and a Police Captain also participated in the meetings. The Marijuana Study Committee met twice, on October 10 and October 17, 2018, and will continue to meet as necessary.

The Study Committee reviewed how other Massachusetts municipalities zoned for adult-use recreational marijuana establishments. In general, other communities across the Commonwealth were applying consistent elements in the wide variety of regulations. Those elements include creating new use categories for marijuana establishments ranging from retailers to product manufacturers, requiring a special permit for such uses, adopting the 500-foot buffer from public and private schools serving students in grades kindergarten through twelve, establishing a cap on the number of retailers, applying density limitations to retailers, and considering applying a buffer to other land uses.

The amendments include a range of definitions to address the new adult-use recreational marijuana establishments. These establishments fall into three general categories: marijuana retailers, marijuana research and testing facilities, and marijuana production facilities. By comparing where similar non-marijuana uses are allowed, the new marijuana uses were allowed in B2A, B3, B4, and B5, as well as the Industrial District, with the exception of marijuana production facilities which are only allowed in the B4 zoning district and the Industrial District. The zoning districts where medical marijuana treatment centers (MMTC) are allowed, currently B3 and B5, were expanded to include the B2A, B4, and Industrial District. An analysis of the buffer zones suggested that the MMTCs would not have viable options for locating if the zoning continued to limit the use to B3 and B5. The Study Committee wanted to minimize concentration of these establishments and ensure broad distribution throughout town. In keeping with our existing zoning districts, the Study Committee did not recommend zoning for these establishments in the B1 (Neighborhood Office) or B2 (Neighborhood Business) zones which are primarily for one- and two-family dwellings and small retail and service establishments.

The Study Committee recommended the allowed maximum 500-foot buffer around pre-existing public or private schools providing education in kindergarten or any of grades one through 12, a 200-foot buffer around public libraries, and a 300-foot buffer around Town-owned playgrounds and recreational facilities. Applying these buffers without allowing an expansion of the zoning districts where marijuana uses could locate, would effectively cause

the use to be prohibited in the town. Therefore, the ARB supported the expansion of zoning districts from what was adopted in support of MMTCs as the use, both recreational and medical, would be located along major corridors, in commercial centers, and accessible by public transportation.

The Study Committee also wished to develop a consistent set of rules for all establishments. All recreational marijuana establishments and medical marijuana treatment centers must obtain an Environmental Design Review Special Permit from the Redevelopment Board. Additionally, a new Special Permit is required for a previously-permitted medical marijuana treatment center if the establishment converts to a marijuana retailer or a co-located establishment. The ARB is well-equipped to handle this Special Permit review, and supported the requirement as recommended by the Study Committee.

Focusing on the public-facing, consumer-oriented marijuana establishments, namely marijuana retailers, the proposed amendments include a cap on the number of marijuana retailers and a density limitation between such establishments. State regulations allow municipalities to impose a cap on the number of marijuana retailers to not less than 20% of the number of licenses for off-premises alcohol consumption (package stores). M.G.L. c. 94G sets forth the process by which the Town may limit the number of Marijuana Establishments in Arlington, as well as how the Town could prohibit all retail recreational establishments, except Medical Marijuana Treatment Centers. Application of this cap effectively limits the number of marijuana retailers to 2 licenses¹ which was supported by the Study Committee. If the Town were inclined to limit the number of recreational marijuana retailers below two (2), or ban all marijuana retail sales, it must place a proposed bylaw banning or reducing Marijuana Establishments allowed below two (2) on a ballot in a regular or special election and obtain a majority of votes in favor of the restriction or prohibition. Neither the Select Board nor Town Meeting can prohibit recreational sales without a local ballot because the majority of Arlington voted in favor of Question 4 on the 2016 ballot. The ARB's vote raises the maximum number to three (3) which allows for a modest number of retailers and decouples the number of licenses for marijuana retailers from the number of licenses for package stores. Additionally, a marijuana retailer may not be located within 2,000 feet of another marijuana retailer. This essentially limits Arlington Center to one marijuana retailer avoiding a saturation of the market in any one area of Arlington.

Other limitations are imposed on marijuana production facilities. Production facilities can be a marijuana cultivator, marijuana product manufacturer, or a marijuana microbusiness. Production facilities are limited to 5,000 square feet in gross floor area, and if the marijuana products that are cultivated and produced for non-medical use, the production facility must be licensed as a Tier 1 marijuana microbusiness meaning that the marijuana canopy contained within the building may not be more than 5,000 square feet.

¹ Following the vote at Special Town Meeting in May 2018, the Town of Arlington is awaiting passage of special legislation to raise the number of licenses for off-premises alcohol consumption (package stores) to 6 licenses.

Five people spoke at the public hearings, including three members of the Study Committee. Committee members commented on the process and proposal. The Committee had active discussions, grappling with issues of density and location, but ultimately agreeing to a proposal that they believed would meet community standards. One community member expressed concern that the cap would prevent these types of establishments from growing. Another community member expressed concern that retail establishments would be allowed in the Industrial Zone. While the district “discourages... retail business uses, or uses which would otherwise interfere with the intent of [the] Bylaw,” (5-35, Arlington Zoning Bylaw) it does not forbid retail businesses, nor does it forbid retail within mixed-use buildings.

VOTED (5-0) that the Zoning Bylaw be and hereby is amended by:

Amend Section 2, DEFINITIONS, to add the following general definitions related to marijuana:

Marijuana: Also known as Cannabis, means all parts of any plant of the genus Cannabis not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that cannabis shall not include: (a) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (b) hemp; or (c) the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana Products: Marijuana and its products unless otherwise indicated. These include products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Marijuana Use: A Marijuana Production Facility (See “Marijuana Cultivator”, “Marijuana Product Manufacturer”, “Marijuana Microbusiness”, and “Marijuana Production Facility”), Marijuana Research and Testing Facility (See “Independent Testing Laboratory” and “Marijuana Research Facility”), Marijuana Retailer, or Medical Marijuana Treatment Center as defined in this Zoning Bylaw.

Amend Section 2, DEFINITIONS, to strike the existing definition for Recreational Marijuana Establishment and replace with the definition for Marijuana Establishment:

~~Recreational Marijuana Establishment: A non-medical marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.~~

Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana

Research Facility, or any other type of licensed marijuana-related business except not a Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary or RMD.

Amend Section 2, DEFINITIONS, to add the following definitions related to marijuana establishments:

Marijuana Cultivator: An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator, pursuant to 935 CMR 500.00.

Marijuana Product Manufacturer: An entity licensed to obtain, manufacture, process and package marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana Retailer: An entity licensed to purchase and transport Marijuana Products from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from off-site delivery of Marijuana Products to consumers; and from offering Marijuana Products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

Independent Testing Laboratory: A laboratory that is licensed by the Cannabis Control Commission (the Commission) and is: (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission; (b) independent financially from any Medical Marijuana Treatment Center (also known as a Registered Marijuana Dispensary or RMD), Marijuana Establishment or licensee for which it conducts a test; and (c) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Marijuana Research Facility: A Marijuana Research Facility is an academic institution, non-profit corporation or domestic corporation or entity authorized to do business in the Commonwealth of Massachusetts. Such Marijuana Research Facility may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding Marijuana and Marijuana Products. Any research involving humans must be authorized by an Institutional Review Board. A Marijuana Research Facility may not sell marijuana it has cultivated.

Marijuana Microbusiness: A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, pursuant to 935 CMR 500.00, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments, pursuant 935 CMR 500.00.

Marijuana Production Facility: An establishment authorized to cultivate, manufacture, process, or package marijuana products, in accordance with applicable state laws and regulations. A Marijuana Production Facility may be licensed to operate as a Marijuana

Cultivator or Marijuana Product Manufacturer, or registered as a Medical Marijuana Treatment Center (also known as a Registered Marijuana Dispensary or RMD), or a co-located medical and non-medical establishment , in accordance with applicable state laws and regulations.

Amend Section 2, DEFINITIONS, to revise the existing definition for Medical Marijuana Treatment Center:

Medical Marijuana Treatment Center: An ~~not-for-profit~~ establishment registered with the Commonwealth pursuant to 105 CMR 725.100, also known as a “Registered Marijuana Dispensary” (RMD) that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, offers for sale, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical purposes in accordance with applicable state laws and regulations. Unless otherwise specified, Medical Marijuana Treatment Center refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Amend SECTION 3.4 ENVIRONMENTAL DESIGN REVIEW, to include Marijuana Establishments as required to obtain an Environmental Design Review Special Permit:

Section 3.4.2. Applicability

The following uses shall also be acted upon by the Arlington Redevelopment Board in accordance with the environmental design review procedures and standards of this Section 3.4:

- (1) Any use permitted as a right or by special permit in the Planned Unit Development District and the Multi-Use District.
- (2) Parking in the Open Space District.
- (3) Medical Marijuana Treatment Center.
- (4) Marijuana Establishment.

Amend SECTION 5 DISTRICT REGULATIONS, to create new use categories for Marijuana Establishments and amend existing use categories for Medical Marijuana Treatment Centers:

Amend table in Section 5.5.3:

Class of Use	B1	B2	B2A	B3	B4	B5
Retail						
<u>Marijuana Retailer</u>			<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>
Research, Laboratory, Related Uses						
<u>Marijuana Research and Testing Facility</u>			<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>
Light Industry						
<u>Marijuana Production Facility</u>					<u>SP</u>	

Other Principal Uses					
Medical Marijuana Treatment Center		<u>SP</u>	SP	<u>SP</u>	SP

Amend table in Section 5.6.3:

Class of Use	MU	PUD	I	T	OS
Retail					
Marijuana Retailer			<u>SP</u>		
Research, Laboratory, Related Uses					
Marijuana Research and Testing Facility			<u>SP</u>		
Light Industry					
Marijuana Production Facility			<u>SP</u>		
Other Principal Uses					
Medical Marijuana Treatment Center			<u>SP</u>		

Amend SECTION 8, Special Regulations, to delete temporary moratorium and replace with standards for marijuana uses

8.3 — TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS

8.3.1 — Purpose

~~By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (G.L. c. 94G, "Regulation of the Use and Distribution of Marijuana Not Medically Prescribed"). Effective December 15, 2016, the law allowed certain personal use and possession of marijuana, and further requires the Cannabis Control Commission to issue regulations regarding the licensing of commercial marijuana activities on or before March 15, 2018, and subsequently, to accept license applications for commercial operations beginning on April 1, 2018. The Cannabis Control Commission adopted regulations on or about March 6, 2018; transmitted to the Secretary of State on March 9, 2018. Non-medical Marijuana Establishments as defined by G.L. c. 94 are not otherwise contemplated or addressed under the present Zoning Bylaw. The regulations to be promulgated by the Cannabis Control Commission provide important guidance on aspects of local regulation of Recreational Marijuana Establishments, as well as details on how the Town may further restrict commercial sales of recreational marijuana by local ballot questions, but were not finalized in sufficient advance of the Annual Town Meeting. Moreover, the regulation of recreational marijuana raises novel legal, planning and public safety issues, potentially necessitating time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the~~

~~potential impact of the aforementioned State regulations on local zoning; and to undertake a planning process fully informed by the new Cannabis Control Commission regulations to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The Town intends to continue its temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to adopt provisions of the Zoning Bylaw in a manner consistent with sound land use planning goals and objectives now that the parameters of retail marijuana have been fully and finally defined by the Commission.~~

~~8.3.2~~ **Temporary Moratorium**

~~For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Recreational Marijuana Establishments. The moratorium shall be in effect through December 31, 2018, or until such time as the Town adopts Zoning Bylaw amendments that regulate Recreational Marijuana Establishments, whichever occurs earlier. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of non-medical recreational marijuana in the Town, consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments and related uses, and shall consider adopting new Zoning Bylaws in response to these new issues.~~

~~8.3.3~~ **Severability**

~~The provisions of this by law are severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.~~

8.3. Standards for Marijuana Uses

For all marijuana uses, the following standards apply:

A. General

- (1) Marijuana Establishments and Medical Marijuana Treatment Centers shall be allowed only after the granting of an Environmental Design Review Special Permit by the Arlington Redevelopment Board, subject to the requirements of Section 3.4 and this Section.
- (2) Marijuana Retailers and Marijuana Production Facilities, as defined in Section 2, may be established to provide Marijuana Products for medical use, non-medical use, or both, in accordance with applicable state laws and regulations.
- (3) Marijuana Establishments and Medical Marijuana Treatment Centers shall be located only in a permanent building and not within any mobile facility. All sales, cultivation, manufacturing, and other related activities shall be

conducted within the building, except in cases where home deliveries are authorized pursuant to applicable state and local regulations.

- (4) Marijuana Production Facilities shall not be greater than 5,000 square feet in gross floor area, and shall be licensed as a Marijuana Microbusiness if Marijuana Products are cultivated or produced for non-medical use.
- (5) A Marijuana Retailer or Marijuana Production Facility that has previously received an Environmental Design Review Special Permit from the Arlington Redevelopment Board for a Medical Marijuana Treatment Center shall be required to amend its previously issued Special Permit to authorize the conversion to or co-location of a Marijuana Establishment for the non-medical use of marijuana.

B. Location

- (1) Pursuant to 935 CMR 500.110, Marijuana Establishments shall not be permitted within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades one through 12. This standard also applies to Medical Marijuana Treatment Centers not already permitted by the date of this bylaw.
- (2) Marijuana Establishments and Medical Marijuana Treatment Centers, not already permitted by the date of this bylaw, shall not be located within 300 feet of Town-owned playgrounds and recreational facilities and 200 feet of public libraries, unless a finding of the Arlington Redevelopment Board determines that the location, based on site-specific factors, or if the Applicant demonstrates, to the satisfaction of the Arlington Redevelopment Board, that proximity to the aforementioned facilities will not be detrimental based upon criteria established in 3.3.3. and 3.3.4.
- (3) A Marijuana Retailer shall not be permitted within 2,000 feet of another Marijuana Retailer; A Medical Marijuana Treatment Center shall not be permitted within 2,000 feet of another Medical Marijuana Treatment Center.

C. Cap on the number of Special Permits for Marijuana Retailers

- (1) The Arlington Redevelopment Board shall not grant a special permit if doing so would result in the total number of Marijuana Retailer licenses to exceed a maximum of three.

-- End of Report --



Town of Arlington, Massachusetts

Appointment of Cindy Sheridan Curran to Agent of the BOH

ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	Memo_to_BOH-_Cindy_Curran.docx	Memo



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
27 Maple Street
Arlington, MA 02476

Tel: (781) 316-3170
Fax: (781) 316-3175

MEMO

To: Board of Health Members

From: Natasha Waden, Public Health Director

Date: October 18, 2018

Re: Appointment of an Agent to the Board of Health

As you are aware, the Health Department regulates and enforces any violations associated with the Board of Health Regulations: Prohibiting Smoking in Workplaces and Public Places. While the department receives very few complaints on a yearly basis in regards to workplace smoking violations, we are contacted frequently by school personnel regarding youth smoking or vaping on school grounds at both the Middle and High Schools.

Cindy Sheridan Curran is the Jail Diversion Coordinator for Arlington Public Schools and is regularly involved with the restorative justice program. As part of this program, she is also involved in the process with students who have been caught smoking or vaping on school grounds. Cindy has a well established relationship with the student body at both the Middle and High School and works closely with our Youth Health and Safety Coalition Director, who manages the youth tobacco violation process. In order to streamline the process of issuing tickets, following up with parents, confirming payment of said ticket, and pursuing court complaints, when necessary; I would like to suggest that the Board consider making her an agent to the Board of Health.



Town of Arlington, Massachusetts

USushi Café (474 Massachusetts Avenue) – Variance Request

ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	BoH_Memo_Usushi_Cafe_Variance_11-29-2018.docx	USushi Memo
▢	Reference Material	USuhsi_Cafe_HACCP.pdf	USushi HACCP Plan



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
27 Maple Street
Arlington, MA 02476

Tel: (781) 316-3170
Fax: (781) 316-3175

To: Board of Health
From: Kylee Sullivan, Health Compliance Officer
Date: November 29, 2018
RE: USushi Café (474 Massachusetts Avenue) – Variance Request

USushi Café has applied for a variance in accordance with Food Code 3-502.11. USushi Café intends to use acidification, through the use of a vinegar solution, to render cooked rice a non-potentially hazardous food. The variance request was accompanied by the required Hazard Analysis and Critical Control Points (HACCP) plan, which follows for your review. A rice sample has been validated by a local food testing laboratory with a pH of 3.92, less than the target of 4.1.

USUSHI CAFÉ
474 MASSACHUSETTS AVE.
ARLINGTON, MA 02474

**HACCP PLAN FOR USING ACIDIFICATION TO MAKE COOKED RICE A
NON-POTENTIALLY HAZARDOUS FOOD**

TABLE OF CONTENTS

Page 1 - Introduction

Page 2 - Signature Sheet (HACCP cover sheet)

Page 3 – Summary of Procedures for the Acidification of Cooked Rice

Page 4 - Flow Diagram for the Production of Acidified Rice

**Page 5/6 - HACCP Master Plan Sheet for the Acidification of Cooked Rice (2 pages)
(Narrative Form)**

Page 7 – HACCP MASTER SHEET SUMMARY (Table Form)

Page 8 - Standard Operating Procedure for pH Measurement via a pH meter

Page 9 – Standard Operating Procedure for pH Measurement via pH test paper

Page 10 /11 - pH Log (master sheet & sample sheet)

Page 12- Summary of Employee Training Elements for the Production of Sushi Rice

Page 13 / 14 - Employee Training Log (master sheet & signed sheets)

Page 15 - Laboratory Results

Supplement – Guidelines for the Safe Preparation of Sushi

USUSHI CAFE
474 MASSACHUSETTS AVE.
ARLINGTON, MA 02474

INTRODUCTION

ISSUE: Using Acidification to Make Cooked Rice a Non-Potentially Hazardous Food

PURPOSE: As per MA Food Protection Program Policies, Procedures, and Guidelines No: RF3-3, any food establishment which acidifies rice in order to render it a non-potentially hazardous food, must obtain a variance from the board of health (BOH).
A request for such a variance must be accompanied by a HACCP plan.

WHAT IS HACCP? HACCP, or Hazard Analysis Critical Control Point system, is a process control system that identifies where hazards might occur in the food production process and puts into place stringent actions to take to prevent the hazards from occurring. HACCP is divided into two sections. The first, HA, is the hazard analysis, which identifies where, in the food production process, things can go wrong and how they can go wrong, resulting in unsafe food. The second section of the plan, CCP, establishes food safety limits and monitoring and verification procedures to make sure the established limits are not exceeded. These procedures are documented.

A **Critical Control Point (CCP)** is a point or procedure in a specific food system where loss of control may result in an unacceptable risk to the consumer.

A **Critical Limit (CL)** is the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a CCP to minimize the risk that the identified food safety hazard may occur.

PUBLIC HEALTH RATIONALE: As per FCC No. RF3-3, a HACCP plan is necessary when acidification of food is a food process. Cooked Rice is a Potentially Hazardous Food (PHF). If the pH of the rice is not brought down below 4.6, it may be able to support the growth of pathogens (illness causing bacteria) when stored at room temperature.

HAZARD ANALYSIS OF THE ACIDIFICATION OF RICE PROCESS

Cooked rice maintained in the temperature danger zone (41- 140°F) is susceptible to the outgrowth of spore-forming bacteria such as *Bacillus cereus*. The production of sushi requires the rice to be able to be formed. Cold rice is difficult to form. Because the functionality of sushi rice requires its use at room temperature, the rice must be acidified to a pH value below 4.6 to inhibit the growth of these spore-forming bacteria. This HACCP plan addresses proper acidification of rice for room temperature storage and use.

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474 MASSACHUSETTS AVE.
ARLINGTON, MA 02474

I, Zhi Ping Cai, in the position of manager, initially present and implement
this HACCP PLAN FOR THE PRODUCTION OF SUSHI RICE.

SIGNATURE: 

DATE: 10/22/2018

REVIEW / REVISION TO HACCP (summarize change below)	SIGNED BY:	DATE

**This sheet must be signed and dated by a PIC after any reassessment or change
to the HACCP Program or a minimum of once per year.**

HACCP PLAN MASTER SHEET FOR THE ACIDIFICATION OF COOKED RICE

CRITICAL CONTROL POINT: The acidification of the cooked rice has been identified as the critical control point (CCP).

HAZARD CONTROLLED: Proper acidification of cooked rice inhibits the growth of spore-forming bacteria, including *Bacillus cereus*, which may survive the rice cooking process. The survival and outgrowth of illness-causing bacteria (pathogens) is a biological hazard.

CRITICAL LIMIT (CL): A pH value of acidified rice of less than 4.6 is required. However, the MA Food Protection Evaluation Tool for Acidified Rice HACCP plans requires that the pH of acidified rice shall not exceed 4.3 if tested within 2 hours of preparation, or 4.6 if tested after 2 hours of preparation.

MONITORING PROCEDURES:

What is being measured? Acidified rice

How is it being measured? The acidified rice is measured using a calibrated pH meter. (Refer to *Standard Operating Procedure for pH Measurement* for procedures to calibrate the pH meter and to measure a slurry sample of acidified rice.) The pH meter currently being used is a ExStik pH Meter, Model PH100. (pHdriion Microfine 2.8 – 4.6 test paper serves as a secondary method of testing.)

Frequency: Each batch of rice is measured prior to initial use.

Who will perform the measurement? The sushi chef or an employee designated by the PIC shall calibrate the pH meter and measure the pH of the acidified rice samples.

✶ **NOTE:** Acidified rice shall not be used until the pH testing is performed and the critical limit is met.

CORRECTIVE ACTIONS: HACCP is considered to be a preventive food safety system. When the critical limit is met, the risk to the consumer is minimized to an acceptable level. If the critical limit is not met: 1. Discard rice if not made within one hour.

2. If rice is made within the hour, cool immediately or add additional vinegar, re-mix and retest pH to ensure CL is met.

To prevent recurrence of a critical limit deviation, verify that the correct amount of vinegar mixture is being added to one batch of cooked rice. Verify that the cooked rice batch size has not changed. Verify that the pH meter is being used properly and review pH buffer integrity, pH meter electrode integrity, and battery strength.

RECORDS: The pH meter calibration, acidified rice pH measurement and any corrective actions are recorded on the pH log. The pH log shall be maintained for 30 days. A signed HACCP plan and current laboratory results are records to be maintained annually and available for inspection.

VERIFICATION: HACCP verification procedures are procedures beyond monitoring that are established to ensure that the HACCP plan is being executed as designed and is effective in preventing an unacceptable level of risk to the consumer. (Refer to HACCP Verification Procedures).

USUSHI CAFÉ, 474 MASSACHUSETTS AVE., ARLINGTON, MA 02474

HACCP PLAN MASTER SHEET FOR THE ACIDIFICATION OF COOKED RICE

VERIFICATION PROCEDURES:

1. CALIBRATION OF pH METER: A properly working pH meter is required to provide an accurate pH measurement. To ensure accuracy, the pH meter shall be calibrated once per day prior to initial use by the sushi chef or an employee designated by a PIC. The calibration shall be documented by completing the first column of the pH log, which is designated for calibration. The date and initials of the person performing the calibration signifies completion of the calibration procedure.

2. RECORD REVIEW: To ensure that the records are complete and accurate and that the critical limit has been met, the records (pH log) are to be reviewed daily or as needed by a PIC. This record review shall be documented by completing the last column of the pH log, which is designated for record review. The date and initials of the reviewer with a comment ("OK", "Acceptable") for the records reviewed signifies completion of the record review.

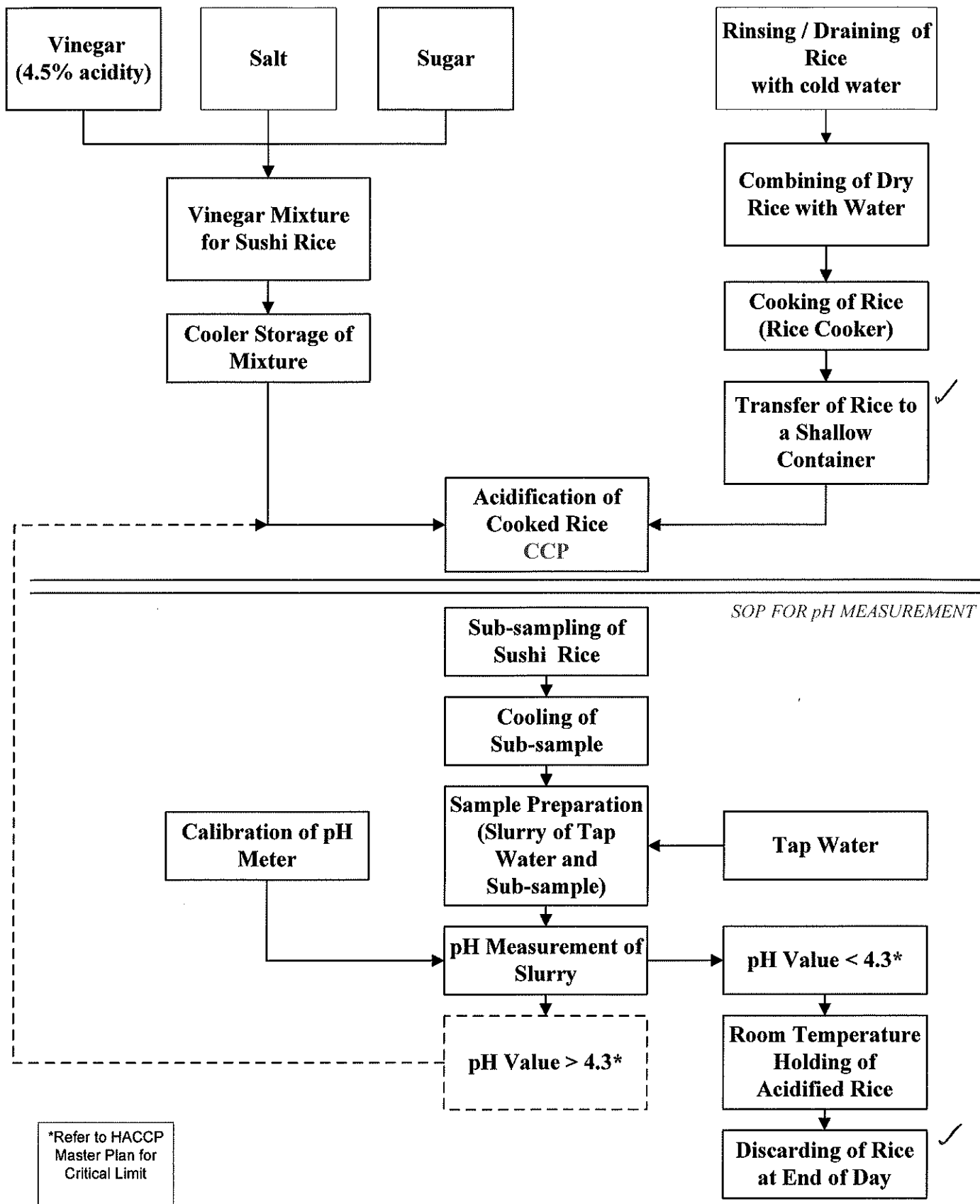
3. RECIPE VALIDATION: MA FCC No. RF 3-3 requires that the acidified rice recipe must be validated by a food laboratory to show that it results in the recipe has a target pH of 4.1. Lab validation must be updated annually or when the recipe is modified. Additional validation may be required when the daily pH levels are consistently higher than the laboratory validated pH measurement. These laboratory test results shall be maintained on file for one year.

4. HACCP REASSESSMENT: The HACCP plan must be reviewed a minimum of annually to ensure that the plan is accurate and is being executed properly. The HACCP cover page shall be signed and dated at least annually or after any modification to the plan.

USUSHI CAFÉ

474 MASSACHUSETTS AVE., ARLINGTON, MA 02474

FLOW DIAGRAM OF THE PRODUCTION OF SUSHI RICE



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ARLINGTON, MA 02474

HACCP PLAN FOR THE PRODUCTION OF SUSHI RICE

PURPOSE: Cooked rice maintained in the temperature danger zone (41- 140°F) is susceptible to the outgrowth of spore-forming bacteria such as *Bacillus cereus*. Because the functionality of sushi rice requires its use at room temperature, the rice must be acidified to a pH value below 4.6 to inhibit the growth of these spore-forming bacteria. This HACCP plan addresses proper acidification of rice for room temperature storage and use.

RECIPE

Equipment: measuring container, storage container with cover for vinegar mixture, rice cooker, shallow container for cooked rice, spoon or paddle to disperse vinegar mixture, and stainless steel rice warmer

Ingredients: rice, water, vinegar, sugar and salt

To make vinegar mixture, mix 5 gallons of Rice Flavored distilled Vinegar (Mitsukan brand, 4.5% acidity), 6 pints of sugar, and 1 pint salt. This mixture is stored in a clean, covered container in the refrigerator.

To make sushi rice:

1. Wash 168 oz. of dry rice in a colander until the water runs clear.
2. Drain thoroughly.
3. Place the washed rice into rice cooker. Add 5 quarts of water and cook.
4. Transfer rice into a shallow mixing container.
5. ADD 35 OZ. OF THE VINEGAR MIXTURE TO ONE BATCH OF COOKED RICE.
6. The mixture is thoroughly stirred to distribute the vinegar mixture and facilitate cooling.
7. The pH is measured immediately according to established procedures.
(See: *HACCP Master Plan, Standard Operating Procedures for pH Measurement of Sushi Rice, Summary of Training Elements for the Production of Sushi Rice*)
8. Shelf-life: The sushi rice is transferred to a stainless steel rice warmer. Discard unused rice at the end of the day.
9. The pH value of sushi rice formulated according to the above listed formulation and procedures was validated by an independent laboratory and found to be less than 4.1 (see attached).
Sushi rice acidification shall be verified according to the HACCP Master Plan.
10. This HACCP plan shall be reviewed a minimum of once per year or as needed by the PIC and shall be signed and dated to document this review. (see cover sheet).

HACCP PLAN MASTER SHEET FOR THE PRODUCTION OF SUSHI RICE

Critical Control Point	Hazard Controlled	Critical Limit(s)	Monitoring	Corrective Action	Records	Verification
PRODUCTION OF SUSHI RICE (Acidification to exempt rice as a PHF using a validated recipe)	Growth of Pathogens (spore-formers including <i>Bacillus cereus</i>)	pH value of finished sushi rice < 4.3 @ 25°C if measured within 2 hours < 4.6 if tested after 2 hours of preparation Recipe validated at a targeted pH ≤ 4.1.	<u>What</u> – sushi rice <u>How</u> - A calibrated pH meter as per Standard Operating Procedures for pH measurement <u>Frequency</u> – each batch <u>Who</u> – sushi chef or designated employee <u>OR</u> <u>What</u> – sushi rice <u>How</u> – pH paper as per Standard Operating Procedures for pH measurement <u>Frequency</u> – each batch <u>Who</u> – sushi chef or designated employee	For rice made within 2 hours, if pH value is greater than 4.3 and less than 4.6, add more vinegar until a value below 4.3 is achieved - Record new value For rice with a pH value > 4.6, if made greater than one hour from measurement, discard rice. To prevent recurrence: Verify use of correct recipe. Verify proper use of pH paper. Verify adherence to SOP for pH measurement via pH paper.	pH log Corrective Action to be recorded on pH Log Records shall be maintained for 30 Days	1. Calibration of pH meter daily prior to use. 2. Record Review by PIC performed daily. 3. pH of rice tested by a food laboratory annually or when daily pH levels are consistently higher than the laboratory validated pH measurement or when recipe is modified 4. HACCP plan reviewed a minimum of annually or as needed by PIC (Signed and dated by PIC upon review)

STANDARD OPERATING PROCEDURE FOR pH MEASUREMENT

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(Information based upon the use of ExStik pH Meter, Models PH100)

PART 1 - CALIBRATION PROCEDURE (one point calibration)

1. Remove cap from probe tip and turn on the meter. Keep cap readily available for subsequent use. Sponge in cap should be moistened with pH 4.0 buffer solution.
2. Place the electrode into a buffer solution (pH buffer 4.0 is suggested for sushi rice). Momentarily press the CAL key.
3. The ExStik automatically recognizes the buffer solution and calibrates itself to the value.
4. During calibration, the pH reading flashes on the main display.
5. When the calibration is complete, the ExStik automatically displays 'END' and returns to normal operation mode.
6. The appropriate circled indicator 4, 7, or 10 will appear on the LCD when a calibration has been completed. The calibration data is stored until a new calibration is performed.

NOTE: Two point calibration may be performed as per manufacturer instructions.

BUFFER NOTE: Make sure buffer has not passed expiration date.

Keep the buffer covered and properly stored when not in use.

Maintain buffer at room temperature. Keep away from bright light.

Do not immerse probe into main container of buffer. Sub-sample buffer.

Do not return sub-sample (used) buffer into main container.

PART 2 - pH MEASUREMENT OF SAMPLE

1. Place 2 tablespoons of finished sushi rice (as per formulation) into a clean container and cool to room temperature. Proper rice temperature is critical to the pH measurement.
2. Add 1 – 2 teaspoons of room temperature tap* water.
3. Mash the rice and water mixture with a clean spoon until a slurry is created.
4. Using a calibrated pH meter (see above procedure), measure the sample pH by placing the electrode surface into the slurry solution.
5. Wait until the reading stabilizes. This is the equilibrium pH. Record this value on the pH log. (NOTE: The complete record should include the date, time, pH value and initials of the person calibrating or measuring the pH).
6. Rinse the probe in tap water and blot dry with a clean, dry cloth or paper towel.
7. Turn off the meter and replace the cap on the probe tip. Store properly.

NOTE: Refer to Manufacturer's instruction for troubleshooting, cleaning of sensor, and replacing the batteries. *Tap water is acceptable to use per manufacturer instructions.

STANDARD OPERATING PROCEDURE FOR pH MEASUREMENT

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ARLINGTON, MA 02474

This procedure shall be used for measuring the pH of acidified rice (sushi rice). This page shall be used as a training procedure.

pH MEASUREMENT OF SAMPLE using pH test paper

Brand: pHydriion Microfine 2.8 to 4.6 (Micro Essential Laboratory, Brooklyn, NY)

Scale: 0.3 increments

1. Measure the acidity (pH) of your sushi rice within 30 minutes after acidification (mixing the cooked rice and vinegar solution).
2. Make a rice slurry by mixing 20 ml of distilled water with 100 grams of cooked rice. Stir the slurry.
3. Wearing a disposable dry glove, tear off a strip of test paper, approximately 1 inch long.
4. Angle the slurry container to pool the slurry liquid. Dip the test strip into the liquid for a minimum of 10 seconds or until color stabilizes.
5. Compare the color of the test strip to color chart. The reading should not exceed 4.3.
6. Record the pH on the pH log.

NOTE: Make sure to store the test paper in its original packaging when not in use. Keep test paper dry.

REVISED 10-20-15

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ARLINGTON, MA 02474

The pH meter shall be calibrated according to established procedures and at a frequency established in the HACCP Master Plan. Follow the *Standard Operating Procedure for pH Measurement*

* Calibration not required when pH test paper is used for monitoring.

REVISÉD: 10-15-18

USUSHI CAFE
474 MASSACHUSETTS AVE.
ARLINGTON, MA 02474

pH Log / Calibration Log

The pH meter shall be calibrated according to established procedures and at a frequency established in the HACCP Master Plan. Follow the *Standard Operating Procedure for pH Measurement*

Date/ Time / Initials for the performance of pH calibration*	Date	Time	pH of Sushi Rice	Corrective Action (if required)	Initials of person taking pH	<u>PIC Daily Record Review (Verification)</u> Date / Initials

* Calibration not required when pH test paper is used for monitoring.

NOTES:

REVISED: 10-15-18

USUSHI CAFE
474 MASSACHUSETTS AVE.
ARLINGTON, MA 02474

SUMMARY OF EMPLOYEE TRAINING ELEMENTS
FOR THE PRODUCTION OF SUSHI RICE

1. All employees involved in the production of sushi rice shall be trained in proper personal hygiene including:

- proper hand-washing (procedures and frequency)
- proper hair restraints, clothing (uniform and/or use of apron)
- removal of jewelry during production
- proper use of gloves and no bare hand contact of ready-to-eat products

2. All employees involved in the production of sushi rice shall be informed of their responsibility to report to the PIC when they are experiencing symptoms such as nausea, vomiting, diarrhea, fever, sores, or any other symptoms that may affect the safety of food.

3. All employees involved in the production of sushi rice shall be trained in the proper use of applicable food contact surfaces including:

- proper cleaning and sanitizing procedures
- proper storage procedures of equipment / ingredients
- proper handling procedures of equipment / ingredients
- proper procedures for preventing cross-contamination
- proper use and storage of wiping cloths

4. All employees involved in the production of sushi rice shall be trained on the elements of the ***HACCP Plan for the Production of Sushi Rice*** including:

- proper cooking procedures
- proper formulation of sushi vinegar mixture
- proper acidification of sushi rice through cooked rice to vinegar mixture ratio control and mixture distribution
- proper sub-sampling procedures of sushi rice for pH measurement
- proper preparation of sushi rice for pH measurement
- proper storage and use of sushi rice
- proper shelf-life of sushi rice

5. All employees involved in the production of sushi rice shall be trained on the ***Standard Operating Procedure for pH Measurement*** including:

- proper pH measurement of sample
- proper handling procedures of pH paper
- proper storage procedures pH paper
- current HACCP critical limits established in the plan
- current HACCP monitoring frequency established in the plan
- proper HACCP corrective actions when a deviation for a critical limit occurs
- proper HACCP verification procedures / frequency
- proper retention of records for 30 days

(Refer to the U.S. FDA Food Code or local regulations, as applicable.)

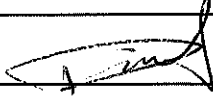
REVISED 10-15-18

USUSHI CAFE
474 MASSACHUSETTS AVE.
ARLINGTON, MA 02474

EMPLOYEE TRAINING LOG

The employees listed below have been properly trained in correct procedures for the
production of sushi rice as per the

***SUMMARY OF EMPLOYEE TRAINING ELEMENTS
FOR THE PRODUCTION OF SUSHI RICE (in the HACCP PLAN)***

<i>EMPLOYEES NAME</i>	<i>EMPLOYEE SIGNATURE</i>	<i>TRAINING DATE</i>
PING ZHENG		10/22/18

This sheet must be signed and dated by the employee upon completion of training.

USUSHI CAFE
474 MASSACHUSETTS AVE.
ARLINGTON, MA 02474

EMPLOYEE TRAINING LOG

The employees listed below have been properly trained in correct procedures for the
production of sushi rice as per the

***SUMMARY OF EMPLOYEE TRAINING ELEMENTS
FOR THE PRODUCTION OF SUSHI RICE (in the HACCP PLAN)***

<i>EMPLOYEES NAME</i>	<i>EMPLOYEE SIGNATURE</i>	<i>TRAINING DATE</i>

This sheet must be signed and dated by the employee upon completion of training.



Report Date: October 5, 2018
Lab Code: 18277-4
Date Submitted: 10-04-18

Usushi Café
474 Massachusetts Ave.
Arlington, MA 02474

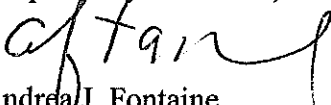
SUBJECT: Equilibrium pH Analysis of Sushi Rice
validation / verification of established recipe

RESULTS

pH (@ 25°C): 3.92

METHODS: 21CFR114.90
A.O.A.C., 17th edition, 2000.

Respectfully submitted,


Andrea J. Fontaine
Laboratory Director

USUSHI CAFÉ
474 MASSACHUSETTS AVE.
ARLINGTON, MA 02474

SUPPLEMENT (NOT PART OF HACCP PLAN)

GUIDELINES FOR THE SAFE PREPARATION OF SUSHI

1. The HACCP Plan for the production of Sushi Rice shall be followed. (see HACCP plan including Training Elements for the Production of Sushi Rice). Proper records shall be maintained for a minimum of thirty days.
2. All food shall be obtained from an identifiable, approved source. All seafood shall come from a source that operates under a HACCP plan.
3. Documentation from fish supplier shall be on file regarding proper freezing of parasitic species of fish. FDA requires that fish be frozen at -4°C for 7 days or at -35°C until solid and stored at -31°F for 15 hours or -4°F for 24 hours in order to ensure parasitic destruction. (True World Letters provided. Farm-raised species are identified.)
4. Proper temperature control of fish and potentially hazardous ingredients during receipt and storage shall be maintained. All potentially hazardous foods shall be received at or below 41°F . Refrigeration units shall operate to ensure food can be maintained at or below 41°F . Frozen products shall be thawed under refrigeration at or below 41°F .
5. All sushi and related ingredients shall be properly handled as per the "No bare hand contact with ready-to-eat foods" policy established in the Food Code. Sushi chefs shall employ the use of gloves.
6. Cross-contamination shall be prevented through separation of raw and cooked ingredients, cleaning and sanitizing of equipment and utensils between uses, and the proper covering of the bamboo mat. Plastic wrap should be changed at least every four hours or after use on raw fish if the mat is to be used again on cooked product. Ideally, a separate set-up (bamboo mat, knife and cutting board) is suggested for raw versus cooked sushi.
7. Each ingredient should be kept in a separate container and held at proper temperatures. Additionally, ensure that all ingredients and utensils are properly stored in designated locations and protected during storage.
8. Consumer Advisory statements required as per the Food Code 3-603.11 shall be properly posted to advise the consumer of increased risk of foodborne illness due to the consumption of raw fish.
9. A PIC (Person-in-Charge) shall be present during all hours of operation during which sushi is produced.

REVISED: 10-15-18



Town of Arlington, Massachusetts

Medical Marijuana

ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	Medical_Marijuana_Memo.docx	Memo
▢	Reference Material	Draft_Regulation_Restricting_the_Sale_of_Marijuana.doc	Draft Regulation Restricting the Sale of Medical Marijuana



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
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Tel: (781) 316-3170
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MEMO

To: Board of Health Members
From: Pdraig Martin, Health Compliance Officer
Date: November 29, 2018
RE: Draft Regulation of the Arlington Board of Health Restricting the Sale of Medical Marijuana

In November of 2012, the citizens of Massachusetts voted to legalize the use of medical marijuana within the State of MA. In conjunction with this, the Arlington Board of Health approved a regulation in 2016 restricting the sale of medical marijuana in accordance with the requirements of Massachusetts Department of Public Health 105 CMR 725.000 IMPLEMENTATION OF AN ACT FOR THE HUMANITARIAN MEDICAL USE OF MARIJUANA.

In July of 2017, Chapter 55 of the Acts of 2017 AN ACT TO ENSURE SAFE ACCESS TO MARIJUANA replaced Chapter 369 of the Acts of 2012 AN ACT FOR THE HUMANITARIAN MEDICAL USE OF MARIJUANA. This replacement transferred the oversight of the medical use of marijuana program from the Massachusetts Department of Public Health to the Cannabis Control Commission (CCC).

The CCC regulations 935 CMR 501.000 MEDICAL USE OF MARIJUANA have not yet been finalized. As such, we have amended our regulations to temporarily address the gap between now and February when we will put forth an updated version to fully reflect the final CCC version.

Enclosed is a copy of the Town of Arlington's regulation restricting the sale of medical marijuana amended to reflect these changes.



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Regulation of the Arlington Board of Health Restricting the Sale of Medical Marijuana

A. Statement of Purpose:

Whereas the citizens of Massachusetts voted in November of 2012 to declare there should be no punishment under state law for Qualifying Patients and health care professionals, Personal Caregivers for patients, or Registered Marijuana Dispensary Agents for the medical use of marijuana.

Whereas the Town of Arlington aims to abide by the aim of this law and ensure that Registered Marijuana Dispensaries abide by further regulations to ensure the public health and public safety of our residents.

Now, therefore it is the intention of the Town of Arlington to regulate the cultivation and sale of medical marijuana.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Arlington Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations".

C. Definitions:

For the purpose of this regulation, the following words shall have the following meanings. Terms not herein defined shall be used as defined in 105 CMR 725.000: IMPLEMENTATION OF AN ACT FOR THE HUMANITARIAN MEDICAL USE OF MARIJUANA, and 935 CMR 501.000 MEDICAL USE OF MARIJUANA.

Blunt Wrap: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

Board of Health: The Town of Arlington Board of Health and any of its authorized agents and representatives.

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Card Holder: A Registered Qualifying Patient, a Personal Caregiver, or a Dispensary Agent of a Registered Marijuana Dispensary who has been issued and possesses a valid Registration Card.

Cultivation Site: The building, structure, enclosed space, area, room or group of rooms, and associated equipment and fixtures, where the cultivation of marijuana occurs pursuant only to a Hardship Cultivation Registration. This shall not refer to a site or facility where the cultivation of marijuana by a Registered Marijuana Dispensary occurs, which shall be considered a Registered Marijuana Dispensary requiring a Permit to Operate a Medical Marijuana Dispensary.

Dispensary Agent: A board member, director, employee, executive, manager, or volunteer of a Registered Marijuana Dispensary, who is at least 21 years of age and who has received approval from the state under 105 CMR 725.030, or corresponding section of 935 CMR 501.000. Employee includes a consultant or contractor who provides on-site services to a Registered Marijuana Dispensary related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.

Dispensary Agent Permit: A permit issued by the Board of Health, expiring on December 31st and to be renewed annually, which permits an eligible person to be employed by a Registered Marijuana Dispensary.

Dispensary Agent Permit Holder: Any employee at a Registered Marijuana Dispensary who applies for and receives a Dispensary Agent Permit.

E-Cigarette: Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Employee: Any individual who performs services for an employer.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

Hardship Cultivation Permit: A permit issued by the Board of Health, expiring on December 31st and to be renewed annually, which permits a Personal Caregiver or a Registered Qualifying Patient to cultivate medical marijuana at a cultivation site within the Town of Arlington.

Hardship Cultivation Permit Holder: Any Personal Caregiver or Registered Qualifying Patient engaged in the hardship cultivation of marijuana who applies for and receives a Hardship Cultivation Permit.

Hardship Cultivation Registration: A registration issued to a Registered Qualifying Patient under the requirements of 105 CMR 725.035, or corresponding section of 935 CMR 501.000.

Limited Access Area: A building, room, or other indoor or outdoor area on the registered premises of a Registered Marijuana Dispensary where marijuana, MIPs, or marijuana by-products are cultivated, stored, weighed, packaged, processed, or disposed, under control of a Registered Marijuana Dispensary, with access limited to only those Dispensary Agents designated by the Registered Marijuana Dispensary.

Marijuana: All parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of

the plant which is incapable of germination. The term also includes Marijuana-Infused Products (MIPs) except where the context clearly indicates otherwise.

Marijuana-Infused Product (MIP): A product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by a Registered Marijuana Dispensary, shall not be considered a food or a drug as defined in M.G.L. c. 94, s. 1.

Nicotine Delivery Product: Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a product approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to, e-cigarettes.

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces rolled marijuana products solely for the individual's own personal consumption or use) that is capable of making rolled marijuana products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

Paraphernalia: “Drug paraphernalia” as defined in M.G.L. Ch. 94C, §1.

Permit to Operate a Registered Marijuana Dispensary (hereafter referred to as “RMD Operating Permit”): A permit issued by the Board of Health, expiring on December 31st and to be renewed annually, that permits a Registered Marijuana Dispensary to operate within the Town of Arlington. A separate RMD Operating Permit is required for each retail establishment selling marijuana and/or marijuana products and for each location, not being the same address as the retail establishment, where the Registered Marijuana Dispensary is approved by the Massachusetts Department of Public Health or the Cannabis Control Commission to cultivate marijuana or prepare MIPs.

Permit to Operate a Registered Marijuana Dispensary Holder (hereafter referred to as “RMD Operating Permit Holder”): Any not-for-profit entity engaged in the sale of medical marijuana that applies for and receives a RMD Operating Permit.

Personal Caregiver: A person, registered by the Massachusetts Department of Public Health, or the Cannabis Control Commission, who is at least 21 years old, who has agreed to assist with a Registered Qualifying Patient’s medical use of marijuana, and is not the Registered Qualifying Patient’s certifying physician. An employee of a hospice provider, nursing, or medical facility or a visiting nurse, personal care attendant, or home health aide providing care to a Qualifying Patient may serve as a Personal Caregiver, including to patients under 18 years of age as a second caregiver.

Qualifying Patient: A Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under 18 years of age who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J), or corresponding section of 935 CMR 501.000.

Registration Card: An identification card issued by the Massachusetts Department of Public Health, or the Cannabis Control Commission, valid for one year from the date of issue, to a Registered Qualifying Patient,

Personal Caregiver, or Dispensary Agent. The Registration Card verifies either that a certifying physician has provided a written certification to the Qualifying Patient and the patient has been registered with the Massachusetts Department of Public Health, or the Cannabis Control Commission; that a patient has designated the individual as a Personal Caregiver; that a patient has been granted a hardship cultivation registration; or that a Dispensary Agent has been registered with the Massachusetts Department of Public Health, or the Cannabis Control Commission, and is authorized to work at a Registered Marijuana Dispensary. The Registration Card allows access into appropriate elements of a Massachusetts Department of Public Health, or the Cannabis Control Commission-supported, interoperable database in which detailed information regarding certifications and possession criteria are stored. The Registration Card identifies for the Massachusetts Department of Public Health, or the Cannabis Control Commission, and law enforcement authorities, those individuals who are exempt from Massachusetts criminal and civil penalties for the medical use of marijuana in compliance with 105 CMR 725.000, or corresponding section of 935 CMR 501.000, and MGL Ch. 369.

Registered Marijuana Dispensary: A not-for-profit entity registered under 105 CMR 725.100, or corresponding section of 935 CMR 501.000, that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered Qualifying Patients or their Personal Caregiver(s). Unless otherwise specified, Registered Marijuana Dispensaries refers to the site(s) of dispensing, cultivation, and preparation of marijuana (for the purpose of this regulation a Medical Marijuana Treatment Facility shall also be called a Registered Marijuana Dispensary).

Registered Qualifying Patient: A Qualifying Patient who has applied for and received a registration card from the Massachusetts Department of Public Health or the Cannabis Control Commission.

Self-Service Display: Any display from which customers may select a marijuana product without assistance from a Dispensary Agent or store personnel.

Smoking: The lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.

Thirty-Day Supply: That amount of marijuana, or equivalent amount of marijuana in MIPs, that a Registered Qualifying Patient would reasonably be expected to need over a period of 30 calendar days for his or her personal medical use, which is a maximum of 5 ounces.

Tobacco Product: Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, snuff, blunt wraps or tobacco in any of its forms.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes marijuana products.

Written Certification: A form submitted to the Massachusetts Department of Public Health, or the Cannabis Control Commission, by a Massachusetts licensed certifying physician, describing the Qualifying Patient's pertinent symptoms, specifying the patient's debilitating medical condition, and stating that in the physician's professional opinion the potential benefits of the medical use of marijuana would likely outweigh the health risks for the patient.

D. Permit to Operate a Registered Marijuana Dispensary:

1. No person shall sell or otherwise distribute marijuana or marijuana products within the Town of Arlington without first obtaining a Permit to Operate a Registered Marijuana Dispensary (“RMD Operating Permit”) issued annually by the Board of Health. Only Registered Marijuana Dispensaries with a permanent, non-mobile location in Arlington, meeting zoning restrictions, are eligible to apply for a RMD Operating Permit to maintain a supply of marijuana or marijuana products at the specified location in Arlington.
2. As part of the application process, the applicant will submit to the Board of Health the detailed summary of operating policies and procedures for the Registered Marijuana Dispensary as submitted with their Phase II application per 105 CMR 725.100, or corresponding section of 935 CMR 501.000, including, but not limited to, provisions for security, prevention of diversion, storage of marijuana, transportation of marijuana, inventory procedures, procedures for quality control and testing of product for potential contaminants, procedures for maintaining confidentiality as required by law, personnel policies, dispensing procedures, record-keeping procedures, plans for patient education, and any plans for patient or Personal Caregiver home-delivery.
3. As part of the RMD Operating Permit application process, the applicant will be provided with this regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and understands that under this regulation they are responsible for complying with all local and state regulations pertaining to the operation of the Registered Marijuana Dispensary. Specifically, a violation of any provision of 105 CMR 725.000, or corresponding section of 935 CMR 501.000, or other applicable state regulation constitutes a violation of this regulation, which may be enforced by the Board of Health.
4. Each applicant is required to provide proof of a current Certificate of Registration to Operate a Registered Marijuana Dispensary, issued by the Massachusetts Department of Public Health, or the Cannabis Control Commission, before a RMD Operating Permit can be issued.
5. The Board of Health will hold a public hearing for the applicant to speak regarding their initial application. The Board of Health may require the applicant to furnish additional information regarding their application before voting to grant or deny the RMD Operating Permit. The Board will not hold a public hearing for renewal applications.
6. Each RMD must hold an annual community meeting to provide abutters and community residents with an opportunity to comment on the RMD’s operating practices, policies and plans. The community meeting shall be advertised by the RMD through direct mail or other written communication to abutters. A notice of the same shall be advertised in the local newspaper. A report outlining the attendance, comments received, and proposed responses and plans to address the comments shall be submitted to the Board with the renewal application.
7. As a condition of RMD Operating Permit issuance, the Registered Marijuana Dispensary agrees to provide to the Board of Health a copy of their Certificate of Registration, annual renewals thereafter, any changes to the business as described in 105 CMR 725.100(F), or corresponding section of 935 CMR 501.000 and current written operating procedures required in 105 CMR 725.105, or corresponding section of 935 CMR 501.000.

8. As a condition of RMD Operating Permit issuance, the Registered Marijuana Dispensary agrees to provide a home delivery service in accordance with 105 CMR 725.000, or corresponding section of 935 CMR 501.000, to patients who demonstrate an inability to access the Registered Marijuana Dispensary.
9. As a condition of RMD Operating Permit issuance, the Registered Marijuana Dispensary agrees to notify the Board of Health orally and in writing within 24 hours of a visit to the premises or request for information by any representative of the Massachusetts Department of Public Health, or the Cannabis Control Commission, acting in an official capacity. The Registered Marijuana Dispensary shall provide the Board of Health with any reports, written or electronic correspondence, or information from the Department of Public Health, or the Cannabis Control Commission, on demand or, in any case, within five (5) business days after receipt by the Registered Marijuana Dispensary.
10. No applicant is permitted to sell alcohol, tobacco products and/or nicotine delivery products and must not be in possession of either a tobacco sales permit or a liquor license issued by the Town of Arlington and/or its Board of Health.
11. No applicant is permitted to hold a common victualler license or food service permit issued by the Board of Health for on-premises food consumption.
12. Applicants who wish to prepare or sell edible MIPs at their Registered Marijuana Dispensary must undergo the Board of Health plan review process for food establishments prior to beginning operations. All edible MIPs shall be prepared, handled and stored in accordance with the requirements of 105 CMR 590.000: Minimum Sanitation Standards for Food Establishments at all times during operation.
13. No applicant is permitted to be a Massachusetts lottery dealer.
14. A separate RMD Operating Permit is required for each retail establishment selling marijuana and/or marijuana products and for each location, not being the same address as the retail establishment, where the Registered Marijuana Dispensary is approved by the Massachusetts Department of Public Health, or the Cannabis Control Commission, to cultivate marijuana or prepare MIPs.
15. The RMD Operating Permit shall be displayed in an open, conspicuous place in view of the public.
16. Permit to Operate a Registered Marijuana Dispensary Holders (“RMD Operating Permit Holders”) shall at all times ensure the buildings, structures, physical facilities, vehicles, fixtures and equipment of the Registered Marijuana Dispensary are being maintained in a sanitary condition, in good repair, free from defects, and in every way fit for the use intended so as to prevent the occurrence of any nuisance conditions or other conditions which may endanger or impair health, safety or wellbeing of an occupant or the general public.
17. Applicants shall develop a plan, subject to review and approval by the Board of Health, for the safe and secure storage and disposal of all marijuana waste and refuse. The plan shall ensure all marijuana waste and refuse is rendered unusable and is disposed of in accordance with applicable law.
18. RMD Operating Permit Holders shall at all times be subject to periodic, unannounced inspections conducted by the Board of Health. Denial of access to the Board of Health may be grounds for immediate suspension or revocation of a RMD Operating Permit.

19. Issuance and maintaining a RMD Operating Permit shall be conditioned on the RMD Operating Permit Holder's compliance with any orders issued by the Board of Health to correct any deficiencies or violations identified during an inspection.
20. Issuance and maintaining a RMD Operating Permit shall be conditioned on an applicant's on-going compliance with this regulation, the requirements set forth in 105 CMR 725.000, or corresponding section of 935 CMR 501.000, a violation of which constitutes a violation of this regulation, which may be enforced by the Board of Health, all other current Commonwealth of Massachusetts requirements and policies regarding marijuana sales, as well as all bylaws and zoning bylaws of the Town of Arlington.
21. RMD Operating Permit Holders agree that a Registered Marijuana Dispensary will not open for business before 9:00 am and shall close no later than 8:00 pm daily.
22. A RMD Operating Permit is non-transferable. A new owner of a Registered Marijuana Dispensary must apply for a new RMD Operating Permit. No new RMD Operating Permit will be issued unless and until all outstanding penalties incurred by the previous RMD Operating Permit Holder are satisfied in full.
23. A RMD Operating Permit will not be renewed if the RMD Operating Permit Holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding RMD Operating Permit suspensions.
24. The fee for a RMD Operating Permit shall be determined by the Board of Health annually.

E. Dispensary Agent Permit:

1. No Dispensary Agent or person shall sell or otherwise distribute marijuana or marijuana products at a Registered Marijuana Dispensary within the Town of Arlington without first obtaining a Dispensary Agent Permit issued annually by the Board of Health.
2. As part of the Dispensary Agent Permit application process, the applicant will be provided with this regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and understands that under this regulation they are responsible for complying with all local and state regulations pertaining to the operation of the Registered Marijuana Dispensary. Specifically, a violation of any provision of 105 CMR 725.000, or corresponding section of 935 CMR 501.000, or other applicable state regulation constitutes a violation of this regulation, which may be enforced by the Board of Health.
3. Each applicant is required to provide proof by means of a valid government-issued photographic identification containing the bearer's date of birth that the applicant is 21 years old or older.
4. Each applicant is required to provide proof of a current Dispensary Agent registration, issued by the Massachusetts Department of Public Health, or the Cannabis Control Commission, before a Dispensary Agent Permit can be issued.
5. Each applicant is required to provide the Criminal Offender Record Information (CORI) report submitted on their behalf to the Massachusetts Department of Public Health, or the Cannabis Control Commission, by the Registered Marijuana Dispensary.

6. Issuance and maintaining a Dispensary Agent Permit shall be conditioned on an applicant's on-going compliance with this regulation, the requirements set forth in 105 CMR 725.000, or corresponding section of 935 CMR 501.000, a violation of which constitutes a violation of this regulation, which may be enforced by the Board of Health, as well as all other current Commonwealth of Massachusetts requirements and policies regarding marijuana sales.
7. A Dispensary Agent Permit will not be renewed if the Dispensary Agent Permit Holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding Dispensary Agent Permit suspensions.
8. Dispensary Agents must present their Massachusetts Department of Public Health, or the Cannabis Control Commission, Registration Card and Dispensary Agent Permit to any law enforcement officer or municipal agent who questions the agent concerning their marijuana-related activities.
9. The fee for a Dispensary Agent Permit shall be determined by the Board of Health annually.

F. Marijuana Sales at Registered Marijuana Dispensaries:

1. No person shall sell marijuana from any location other than at a Registered Marijuana Dispensary that possesses a valid RMD Operating Permit issued by the Board of Health.
2. Registered Marijuana Dispensaries shall only permit Dispensary Agents to transport marijuana or MIPs on their behalf, whether between dispensaries, dispensary sites, or to Registered Qualifying Patients or Personal Caregivers and follow Massachusetts Department of Public Health guidelines found in 725.110(E), or corresponding section of 935 CMR 501.000, which shall be made available to the Arlington Police Department upon request.
3. Registered Marijuana Dispensaries shall permit entry to the Registered Marijuana Dispensary, to specifically engage in activity expressly or by necessary implication permitted by the MGL Ch. 369 and 105 CMR 725.000, or corresponding section of 935 CMR 501.000, to only Registered Qualifying Patients, Personal Caregivers, Dispensary Agents, persons authorized by 105 CMR 725.105(P), or corresponding section of 935 CMR 501.000, and, subject to the requirements of 105 CMR 725.110(C) (4), or corresponding section of 935 CMR 501.000, outside vendors, contractors and visitors.
4. Registered Marijuana Dispensaries shall limit entry to their "Limited Access Areas" to Dispensary Agents and outside vendors, contractors and visitors meeting the requirements found at 105 CMR 725.110(C), or corresponding section of 935 CMR 501.000.
5. Registered Marijuana Dispensaries shall limit sales and/or transactions to quantities of marijuana, or equivalent amounts of marijuana in MIPs, not to exceed a thirty-day supply. A period of time not less than thirty days must elapse before a Registered Qualifying Patient or Personal Caregiver can obtain another thirty day supply from the Registered Marijuana Dispensary.
6. Dispensary Agents shall verify the Registration Card of the Card Holder by means of a valid government-issued photographic identification. No separate identification is required for valid Registration Cards bearing a photograph of the Card Holder.

7. No person shall distribute, or cause to be distributed, any free samples of marijuana or marijuana products. No means, instruments or devices that allow for the redemption of marijuana or marijuana products are prohibited.
8. Registered Marijuana Dispensaries are prohibited from using self-service displays, vending machines or Non-Residential Roll-Your-Own machines. All retail sales of marijuana must be face-to-face between the Dispensary Agent and the Card Holder and occur at the permitted location, unless the Card Holder is the proper recipient of home delivery in accordance with 105 CMR 725.000, or corresponding section of 935 CMR 501.000.
9. The owner or other person in charge of a Registered Marijuana Dispensary shall conspicuously post signage at all entrances indicating that the entry to persons not possessing a valid Registration Card is prohibited. The notice shall be no smaller than 8.5” by 11” and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person approaching the Registered Marijuana Dispensary.

G. Hardship Cultivation Permit:

1. No Registered Qualifying Patient, Personal Caregiver or other person shall cultivate marijuana pursuant to a Hardship Cultivation Registration in accordance with 105 CMR 725.000, or corresponding section of 935 CMR 501.000, within the Town of Arlington without first obtaining a Hardship Cultivation Permit issued annually by the Board of Health.
2. Each applicant is required to provide proof of a current Hardship Cultivation Registration and, where applicable, a current registration card for a Personal Caregiver issued by the Massachusetts Department of Public Health, or the Cannabis Control Commission, before a Hardship Cultivation Permit can be issued.
3. As part of the Hardship Cultivation Permit application process, Personal Caregivers and Registered Qualifying Patients who cultivate marijuana in the Town of Arlington shall submit a copy of the documents provided to the Massachusetts Department of Public Health, or the Cannabis Control Commission as outlined in 105 CMR 725.020(A), or corresponding section of 935 CMR 501.000, to the Board of Health.
4. Each Hardship Cultivation Permit Holder shall at all times ensure the cultivation site is being maintained in a sanitary condition, in good repair, free from defects, and in every way fit for the use intended so as to prevent the occurrence of any nuisance conditions or other conditions which may endanger or impair health, safety or wellbeing of an occupant or the general public.
5. A portable fire extinguisher that complies with the regulations and standards adopted by the State Fire Marshal and applicable law shall be securely mounted at each entrance to the room where the cultivation occurs.

6. Hardship Cultivation Permit Holders shall at all times be subject to cultivation site inspections conducted by the Board of Health. Denial of access to the Board of Health may be grounds for immediate suspension or revocation of a Hardship Cultivation Permit.
7. Issuance and maintaining a Hardship Cultivation Permit shall be conditioned on the Hardship Cultivation Permit Holder's compliance with any orders issued by the Board of Health to correct any deficiencies or violations identified during an inspection.
8. Issuance and maintaining a Hardship Cultivation Permit shall be conditioned on the applicant or Hardship Cultivation Permit Holder's on-going compliance with this regulation, the requirements set forth in 105 CMR 725.000, or corresponding section of 935 CMR 501.000, as well as all bylaws and zoning bylaws of the Town of Arlington.
9. The fee for a Hardship Cultivation Permit shall be determined by the Board of Health annually.

H. Registration Card Holders:

A Registered Qualifying Patient, Personal Caregiver or a Dispensary Agent must notify the Arlington Police Department after he or she discovers that his or her Registration Card has been lost or stolen.

I. Financial Security:

RMD Operating Permit Holders shall provide a non-cancellable surety bond or other form of surety approved by the Board of Health to cover the cost of removal, closure and/or clean-up in the event the Town must remove, close and/or clean-up the Registered Marijuana Dispensary. The amount and form of the surety bond or any other form of surety shall be determined by the Board of Health, but in no event shall exceed more than 150 percent of the cost of removal, closure and/or clean-up. The RMD Operating Permit Holder shall submit a fully inclusive estimate of the costs associated with removal, closure and/or clean-up, prepared by a qualified Hazardous Waste Remediation Contractor.

K. Violations:

1. Upon a finding that a RMD Operating Permit Holder, a Dispensary Agent Permit Holder or a Hardship Cultivation Permit Holder has violated any provision of this regulation, the Board of Health may order, in writing, the person(s) responsible for violating this regulation to correct any violation of the provisions of this regulation within a specified timeframe.
2. It shall be the responsibility of the RMD Operating Permit Holder and the Dispensary Agent Permit Holder to ensure compliance with all sections of this regulation pertaining to his or her distribution and/or cultivation of marijuana and/or marijuana products. The violator shall receive:
 - a. In the case of a first violation, a fine of three hundred dollars (\$300.00).
 - b. In the case of a second violation within 36 months of the date of the current violation, a fine of three hundred dollars (\$300.00) and the RMD Operating Permit or Dispensary Agent Permit shall be suspended for seven (7) consecutive business days.

- c. In the case of three or more violations within a 36 month period, a fine of three hundred dollars (\$300.00) and the RMD Operating Permit or Dispensary Agent Permit shall be suspended for thirty (30) consecutive business days.
- d. The Board of Health reserves the right to permanently revoke a RMD Operating Permit, Dispensary Agent Permit or Hardship Cultivation Permit for cause.
- e. If a permit holder has obtained a permit or license from any other licensing or permitting authority within the Town of Arlington, the Board of Health shall notify such authority in writing of any violations of this regulation
- f. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the RMD Operating Permit and/or Dispensary Agent Permit.
- g. In addition to the monetary fines set above, any RMD Operating Permit Holder or Dispensary Agent Permit Holder who engages in the sale or distribution of marijuana or marijuana products while his or her RMD Operating Permit or Dispensary Agent Permit is suspended may be subject to the suspension and/or revocation of all Arlington-issued permits and licenses.
- h. The Board of Health shall provide notice of the intent to suspend or revoke a RMD Operating Permit, Dispensary Agent Permit, or Hardship Cultivation Permit, which notice shall contain the reasons therefore and establish a time and date for a hearing, which date shall be no earlier than seven (7) days after the date of said notice. The RMD Operating Permit Holder, Dispensary Agent Permit Holder, Hardship Cultivation Permit Holder or other involved party shall have an opportunity to be heard at such hearing. At the conclusion of the hearing, the Board of Health shall vote to suspend or revoke the RMD Operating Permit, Dispensary Agent Permit or Hardship Cultivation Permit if cause for such action is found. All involved parties shall be notified in writing of the Board of Health's decision within seven (7) days of the hearing. For purposes of such suspensions or revocations, the Board of Health shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All marijuana and marijuana products shall be removed from the retail establishment upon suspension of the RMD Operating Permit. Failure to remove all marijuana and marijuana products shall constitute a separate violation of this regulation.

L. Non-Criminal Disposition:

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue.

Each day any violation exists shall be deemed to be a separate offense.

M. Enforcement:

Enforcement of this regulation shall be by the Arlington Board of Health or its designated agent(s).

Any resident who desires to register a complaint pursuant to this regulation may do so by contacting the Arlington Board of Health or its designated agent(s) and they shall investigate.

N. Severability:

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

O. Effective Date:

This regulation shall take effect on _____, 2016.

1. _____ 2. _____

Michael Fitzpatrick, DMD

Marie Walsh-Condon, MD

3. _____

Kenneth Kohlberg, JD, MPH



Town of Arlington, Massachusetts

Environmental Updates



Town of Arlington, Massachusetts

Restaurant Updates



Town of Arlington, Massachusetts

Public Health Nurse Updates